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THE TRENT AFFAIR

AN HISTORICAL RETROSPECT

BY

CHARLES FRANCIS ADAMS

“ 'Tis Fifty Years Since.”

BOSTON

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[The following paper, prepared for the Massachusetts Historical Society, submitted and in part read at its November meeting, 1911, appears in the printed *Proceedings* of that Society, vol. XLV. pp. 35-76. A few changes in language have been made, and a paragraph added in this issue. In the *Proceedings* it is accompanied (pp. 76-159) by letters on the Trent Affair, drawn from the correspondence of Charles Francis Adams, then Minister to Great Britain, and from other sources.]

THE TRENT AFFAIR.

As, doubtless, all of us have had frequent occasion to observe, there are few occurrences which in their relative connection with other occurrences or with things at large do not assume with the lapse of time aspects strangely different. The passage of fifty years is a great dissolvent and clarifier. The international incident, still memorable, known as the affair of the *Trent* and the seizure by Captain Charles Wilkes, then commanding the *San Jacinto*, of Messrs. Mason and Slidell, the two Confederate envoys, occurred on the 8th of November, and the fiftieth recurrence of that date accordingly came about yesterday.

One living in those times who had then attained even a degree of maturity, that is, any man or woman now over sixty-five years of age, cannot but retain, if American, a distinct recollection of the incident, and a general memory at least of the excitement caused by it, and the intense interest with which every stage of its development was awaited. For such, however, it is necessary also to bear in mind that the present great majority, those of the younger generations, do not have this vivid personal recollection of the events of that memorable period, and there are many whose ideas concerning the affair of the *Trent* are vague and, to say the least, unsettled. For instance, as an illustration in point let me relate an incident told me by my friend Mr. Moorfield Storey. Among the guests on one occasion at Mr. Storey's house was an intelligent young fellow, either a recent Harvard graduate or, possibly, in one of the older classes. He was also in a general way not ill informed, as men of that age go. Incidentally a reference was made to the assault of Preston Brooks on Charles Sumner in the United States

Senate chamber, — very fresh and vivid in Mr. Storey's recollections. To his utter surprise this young man listened with interest, and then asked for further details, observing that he knew nothing about it, never having heard of the occurrence before! To us who lived in those times, such a lack of information upon really momentous historical events seems incomprehensible, almost astounding. Yet from personal experience I have reason to believe the case was in no wise exceptional.

With us of the Civil War generation the events of that period are, on the contrary, in the language of Milton, "writ large." They stand forth in memory, belittling where they do not altogether obscure the historical episodes of very considerable importance which have since occupied attention. It is, therefore, always peculiarly interesting to us — now lingerers from that bygone generation — to look back on those events through the perspective of fifty years, and, recalling our feelings at the time, note the different aspects those events now wear. Few are more well worth consideration from this point of view than the episode I have referred to, — the taking of the Confederate envoys, Messrs. Mason and Slidell, from the steamer *Trent* on November 8, 1861.

In pursuance of my present purpose, I do not propose to enter into any detailed narrative of what then occurred. So far as the facts are concerned, the incident has taken its place, and presumably its proper place, in recorded history. The field too has been thoroughly gleaned; and, though nearly twenty years have passed since the publication of Mr. Thomas L. Harris's very thorough monograph entitled *The Trent Affair*, little light of value has in the intervening time been cast on the subject. The conclusions therein reached have been revised in no essential respect. In his *Life of William H. Seward*, Mr. Frederic Bancroft devotes to this incident his thirty-third chapter, and in that gives a thoroughly unprejudiced and critical account of what occurred. Reading it afresh, Mr. Bancroft's narrative strikes me as judicial; and, moreover, so far as Seward is concerned, while he in it nothing extenuates, he sets down naught in malice.

Before entering in the casual way now proposed on my retrospect, I must first submit certain broad conclusions in

regard to the affair, and the influences and conditions under which it occurred.

Speaking generally, I think I do not remember in the whole course of the half-century's retrospect — equal to the period which elapsed between the surrender at Yorktown and the presidency of Andrew Jackson — any occurrence in which the American people were so completely swept off their feet, for the moment losing possession of their senses, as during the weeks which immediately followed the seizure of Mason and Slidell. Everything combined to this result. In the first place, when the incident occurred the community was in a wholly overwrought nervous condition. On the 8th of November, 1861, seven months had elapsed since the firing on Fort Sumter, and nearly four months since the mortifying Bull Run experience. It was exactly a year from the election to the presidency of Abraham Lincoln. That election, it will be remembered, had been immediately followed by the initial movement of South Carolina in the direction of secession. Then followed the trying winter of 1860 and 1861, during which State after State seceded, the war cloud in the South ever gathering, and assuming day by day a more threatening aspect. The five months which elapsed between the election of 1860 and the firing on Fort Sumter were probably the most trying period, psychologically, this country has ever passed through. The inevitable was constantly assuming a more portentous shape. At last in April war broke out. Thus in November, 1861, the country had been on tenter-hooks, so to speak, for twelve entire months, and during the last six of those months one mortification and failure had followed sharp on another. The community, in a state of the highest possible tension, was constantly hoping for a successful coup somewhere and by someone executed in its behalf. It longed for a man who would do, taking the responsibility of the doing. While it was in this state of mind, the telegraph one day announced that the United States sloop of war *San Jacinto*, under the command of Captain Wilkes, had arrived at Fortress Monroe, having on board the two Confederate envoys, Mason and Slidell, taken on the high seas from the British mail steamer *Trent*. At last the hour seemed come, and with it a man. By one now seeking an explanation of what then occurred, all this must be borne in mind.

Thus worked up to the highest pitch of excitement, the feeling of the country had also been slowly fermenting to one of acute hostility towards Great Britain; and this for two reasons. In the first place, it had seemed as if, in view of its anti-slavery preachings during the last thirty years, and its somewhat Pharisaic, better-than-thou attitude towards America as respects the negro and his condition, Great Britain had failed to evince that sympathy towards us which was expected because of the Slaveholders' rebellion, and had, to say the least, done nothing to forward the cause of the Union in a crisis brought on by the aggressive action of the South. On the contrary, the attitude of England in general had been sneering as well as adversely critical; and the tone of the *London Times*, in particular, — for the *Times*, still known as "The Thunderer," was recognized as the first and most influential newspaper in the world, — had been distinctly unsympathetic, not to say antagonistic and otherwise acutely irritating. William H. Russell, the famous Crimean War correspondent, was also at that time in this country, and his letters regularly appearing in the *Times* as "from our special correspondent" were republished and read in America to an extent which can hardly now be understood. Anxiously waited for, and printed *in extenso* in all the leading journals, extracts from them were to be found in every paper in the land. Russell had been to a certain extent present at Bull Run, and a witness of our disgrace. While his account of what he saw on that occasion was photographic and strictly correct, we none the less had become morbidly conscious that there was "a chiel amang [us] taking notes," and the "notes" he took when seen in "prent" caused a degree of irritation at this day difficult to describe or overstate. Thus morbidly excited and intensely sensitive, the country was in a thoroughly unreasoning and altogether unreasonable condition, very necessary now to emphasize; for it needed only the occurrence of some accident to lead to a pronounced explosion of what can only be described as Anglo-phobia. Discouraged, we had in fact only begun to settle down to the conviction that a long and uncertain struggle was before us. With all conditions, therefore, explosive, so to speak, in character, the incident of the *Trent* came like a bolt from a clouded and lowering sky; but it was a shell exploding

in a powder magazine rather than a spark falling in a mass of combustible matter.

The course of events, briefly stated, was as follows:— Immediately after the firing upon Fort Sumter, Jefferson Davis, President of the then newly organized Confederate States, had sent out to Europe agents to forward the interests of the proposed nationality. These agents had there spent some seven months, accomplishing little. Disappointed at their failure, Davis determined upon a second and more formal mission. The new representatives were designated as “Special Commissioners of the Confederate States of America, near the Government” whether of Great Britain or of France, as the case might be. James Murray Mason of Virginia and John Slidell of Louisiana were selected, the first named for London, the second for Paris. Both, it will be remembered, had recently been Senators of the United States, Slidell having withdrawn from the Senate February 4, 1861, immediately after the passage of the Ordinance of Secession by the State of Louisiana; while Mason, having absented himself about March 20, during the session of the Senate for executive business, did not again take his seat. Virginia seceded April 17, and Mason, together with several other Southern Senators, was in his absence expelled by formal vote (July 11) at the special session of the Thirty-Seventh Congress, which met under the call of President Lincoln, July 4, 1861. Probably no two men in the entire South were more thoroughly obnoxious to those of the Union side than Mason and Slidell. The first was, in many and by no means the best ways, a typical Virginian. Very provincial and intensely arrogant, his dislike of New England, and especially of Massachusetts, was pronounced, and exceeded only by his contempt.¹ It was said of him at the time that when trouble

¹ The course of subsequent events in no way mollified these antipathies. Writing from London to a daughter in Virginia thirteen months (April 5, 1866) after the delivery of Lincoln’s second inaugural, he thus expressed himself:— “In my varied intercourse with the world, I have met with some whom I held in disesteem, with others in contempt, as unworthy, and some few who were essentially *bad*; but, in looking back, I do not recognize that my feelings toward any such amounted to acrimony, or *insuperable hate*. Now it is otherwise. I confess, that toward every man or thing North, there has arisen within me a feeling of detestation that I cannot express or qualify, if I would. In the war they waged against us, they were demons—in victory, they proved themselves fiends. There are, of course, individual exceptions I doubt not, but I have yet to learn of one

was brewing and he was invited to make a speech in Boston, he had replied that he would not again visit Massachusetts until he went there as an ambassador. Slidell, on the other hand, was considered one of the most astute and dangerous of all Confederate public characters. An intriguer by nature, unscrupulous in his political methods, he was credited with having fraudulently defeated, by secret manipulations, the Clay ticket in Louisiana in the 1844 presidential election, and was generally looked upon as the most dangerous person to the Union the Confederacy could select for diplomatic work in Europe.¹ The first object of the envoys was to secure the recognition of the Confederacy. The ports of the Confederate States were then blockaded; but the blockade had not yet become really effective. The new envoys selected Charleston as their port of embarkation, and October 12 as its date. The night of the 12th was dark and rainy, but with little or no wind, conditions altogether favorable for their purpose. They left Charleston on the little Confederate steamer *Theodora*, evaded the blockading squadron, and reached New Providence, Nassau, two days later, the 14th. It had been the intention of the envoys to take passage for Europe at Nassau on an English steamer; but, failing to find one which did not stop at New York, the *Theodora* continued her voyage to Cardenas in Cuba, whence the envoys and those accompanying them proceeded overland to Havana. Arriving at Havana about the 22d of October, Messrs. Mason and Slidell remained there until the 7th of November. They then em-

prominent man there who has, since the rupture, expressed a sentiment, or evinced a feeling, that would not be held a disgrace to manhood elsewhere." *The Public Life and Diplomatic Correspondence of James M. Mason*, 581.

¹ W. H. Russell thus wrote of Mr. Slidell in a letter to the *Times*, which appeared in its issue of December 10, 1861:—"Mr. Slidell, whom I had the pleasure of meeting in New Orleans, is a man of more tact and he is not inferior to his colleague Mr. Mason in other respects. He far excels him in subtlety and depth, and is one of the most consummate masters of political manoeuvre in the States. He is what is here called a 'wire-puller'—a man who unseen moves the puppets on the public stage as he lists—a man of iron will and strong passions, who loves the excitement of combinations, . . . and who in his dungeon [at Fort Warren], or whatever else it may be, would conspire with the mice against the cat sooner than not conspire at all. . . . Originally a northern man, he has thrown himself into the southern cause and staked his great fortune on the issue without hesitation, and with all the force of his intellect and character. And even he believed that England must break the blockade for cotton."

barked on the British steamer *Trent*, the captain of the *Trent* having full knowledge of their diplomatic capacity as envoys of an insurgent community, and giving consent to their embarkation. The *Trent* was a British mail packet, making regular trips between Vera Cruz, in the Republic of Mexico, and the Danish Island of St. Thomas. She was in no respect a blockade runner; was not engaged in commerce with any American port; and was then on a regular voyage from a port in Mexico, by way of Havana, to her advertised destination, St. Thomas, all neutral ports. At St. Thomas direct connection could be made with a line of British steamers running to Southampton. The envoys, therefore, when they left Havana, were on a neutral mail steamer, sailing under the British flag, on a schedule voyage between neutral points.

At just that time the United States war steamer, *San Jacinto*, a first-class screw sloop mounting fifteen guns, was returning from a cruise on the western coast of Africa, where for twenty months she had been part of the African squadron engaged in suppressing the slave trade. She was commanded by Captain Wilkes, who had recently joined her. Returning by way of the Cape Verde Islands, Captain Wilkes there learned from the newspapers about the last of September of the course of public events in the United States, and rumors reached him of Confederate privateers, as they were then called, destroying American vessels in West India waters. He determined to make an effort at the capture of some of these "privateers." On October 10th the *San Jacinto* reached the port of St. Thomas, and subsequently touched at Cienfuegos on the south coast of Cuba. There Captain Wilkes learned, also from the newspapers, that the Confederate envoys were at that very time at Havana, and about to take passage for Southampton. Reaching Havana on the 28th of October, the commander of the *San Jacinto* further learned that the commissioners were to embark on the steamer *Trent*, scheduled to leave Havana on the 7th of November. Captain Wilkes then conceived the design of intercepting the *Trent*, exercising the right of search, and making prisoners of the envoys. No question as to his right to stop, board, and search the *Trent* seems to have entered the mind of Captain Wilkes. He did, however, take into his confidence his executive officer, Lieutenant Fairfax, disclosing

to him his project. Lieutenant Fairfax entered, it is said, a vigorous protest against the proposed action, and strongly urged on Captain Wilkes the necessity of proceeding with great caution unless he wished to provoke international difficulties, and not impossibly a war with Great Britain. He then suggested that his commanding officer consult an American Judge at Key West, an authority on maritime law; which, however, Captain Wilkes declined to do. Leaving Key West on the morning of November 5th, Captain Wilkes directed the course of the *San Jacinto* to what is known as the Bahama Channel, through which the *Trent* would necessarily pass on its way to St. Thomas, and there stationed himself. About noon on the 8th of November, the *Trent* hove in sight, and when she had approached sufficiently near the *San Jacinto*, a round shot was fired athwart her course; the United States flag was run up at the mast head at the same time. The approaching vessel showed the English colors, but did not check her speed or indicate a disposition to heave to. Accordingly, a few instants later, a shell from the *San Jacinto* was exploded across her bows. This had the desired effect. The *Trent* immediately stopped, and a boat from the *San Jacinto* proceeded to board her. It is unnecessary to go into the details of what then occurred. For present purposes it is sufficient to say that the two envoys, together with their secretaries, were identified and forcibly removed, being taken on board the *San Jacinto*; which, without interfering with the mails or otherwise subjecting the *Trent* to search, then laid its course for Fortress Monroe. Arriving there on the 15th, news of the capture was immediately flashed over the country. The *Trent*, on the other hand, proceeded to St. Thomas, where her passengers were transferred to another steamer, and completed the voyage to Southampton. They arrived and the report of the transaction was made public in Great Britain November 27th, twelve days after the arrival of the *San Jacinto* at Fortress Monroe, and the publication of the news of the arrest in the United States.

Such were the essential facts in the case, and, while a storm of enthusiastic approval was sweeping over the northern part of the United States in the twelve days between November 15th and November 27th, a storm of indignation of quite equal intensity swept over Great Britain between November 27th

and the close of the year.¹ Most fortunately there was no ocean cable in those days, and the movement of the Atlantic steamers was comparatively slow. Accordingly the first intimations of the commotion caused in Great Britain by the action of Captain Wilkes did not reach America until the arrival of the *Hansa* at New York, December 12. Strange as it now seems, therefore, almost an entire month had elapsed between the arrival of the *San Jacinto* at Fortress Monroe (November 15) and the receipt in America (December 12) of any information as to the effect of the seizure of the envoys on the British temper. A most important fact to be now borne in mind.

In reading the accounts of what occurred in America between November 15 and December 26, and seeing the recorded utterances of persons whose names carried authority, it is now most curious to observe the confusion of idea which seemed to exist as to the principles of international law involved, and the apparent utter inability of all concerned to exercise their reason to the extent of preserving consistency of thought or action. The affair was looked at from diverse and several points of view; and the point of view implied a great deal. The situation reminds one, in fact, of Browning's poem of "The Ring and the Book," where, it will be remembered, the poet approaches the mystery from the point of view of each participant in it, — whether the woman who was murdered, the husband who murdered her, the counsel of the one and of the other, the gossip of one half of Rome and the other half of Rome, and finally from the standpoint of the Pope. So, to understand what was then said and done, the status and capture of the Confederate envoys has to be looked at from the Confederate point of view, from the Union point of view, from the English

¹ Two exceptionally well-informed Americans, long resident in Great Britain, then wrote, the one from London to Mr. Seward, and the other from Edinburgh to his uncle, a citizen of New York: — "There never was within memory such a burst of feeling as has been created by the news of the boarding of the [*Trent*]. The people are frantic with rage, and were the country polled, I fear that 999 men out of a thousand would declare for immediate war. Lord Palmerston cannot resist the impulse if he would;" the other, under the same date, November 29: — "The excitement consequent upon the insult to the British flag by the U. S. Frigate, *San Jacinto*, has entirely monopolized the public mind. I have never seen so intense a feeling of indignation exhibited in my life. It pervades all classes, and may make itself heard above the wiser theories of the Cabinet officers." — *War Records*, Series II. II. 1107, 1131.

point of view, and, primarily, from the Captain Charles Wilkes point of view. Seen through the perspective of fifty years, it may now with reasonable assurance be asserted that, in the controversy which ensued, the United States did not have, and never had, in reality, a justifying leg to stand upon, and least of all was there any possible justification for the course pursued by Captain Wilkes. In the first place, Wilkes, commanding a United States ship of war, had not been in communication with his government for months. He had received no instructions; he was not even officially advised of the existence of a blockade; and only through the newspapers and current gossip did he know of the attitude his own government had assumed towards the so-called Confederacy. According to his own statement subsequently made, he did have some treatises on international law in the cabin of the *San Jacinto*, and he consulted them.¹ From these he satisfied himself that accredited envoys were "contraband"; but he ignored the fact that the Confederacy had not been recognized by the United States Government, or by any foreign government, and that the so-called "envoys" were merely "private gentlemen of distinction," citizens of certain States then in insurgency, trying to effect a transit to foreign countries. They were unquestionably embarked under a neutral flag, upon a mail steamer making its regular passage from one neutral port to another. Nevertheless, *pro hac vice*, Captain Wilkes invested the envoys in question with an official character which his government distinctly refused to allow them, and then proceeded on the assumption that ambassadors were "embodied despatches," to exercise on the high seas a right of search of a most questionable character; and, in so doing, he further constituted himself, in the person of his subordinate, a Prize Court, adjudicating on the deck of a neutral ship forcibly halted in its passage as to what personages should be seized,

¹ "When I heard at Cienfuegos on the south side of Cuba of these commissioners having landed on the Island of Cuba and that they were at the Havana and would depart in the English steamer on the 7th of November, I determined to intercept them and carefully examined all the authorities on international law to which I had access, viz., Kent, Wheaton and Vattel, besides various decisions of Sir William Scott and other judges of the admiralty court of Great Britain which bore upon the rights of neutrals and their responsibilities." Official report of Captain Wilkes to the Secretary of the Navy. *War Records*, Series II. II. 1098.

what persons and property should be exempted from seizure, as to how far the process of search should be carried, and generally what course under the conditions given should be pursued. Accordingly, while forcible possession was taken of the persons of the two envoys, no inquiry whatever was made as to their despatch bags, which, when the purpose of the procedure was suspected, had been handed over by the Commissioners to the British mail agent, and been by him deposited in his mail-room. They were subsequently in due course delivered to the agents of the Confederacy in England.

Incidentally it may here be observed that this proceeding on the part of Commander Williams, the mail agent in question, was in plain violation both of recognized British principles and precedents regulating the obligations of neutrals as also of the Queen's proclamation of the previous May; for that ordinance specifically warned all British subjects against "carrying officers, soldiers, despatches . . . for the use or service of either of the said contending parties." An English publicist of recognized authority was, moreover, at that very time pronouncing the conveyance of despatches a "service" of the "most noxious and hostile character." Clearly, then, Commander Williams by the acceptance of these despatches, knowing them to be such, from a recognized envoy of one of the belligerents, gravely compromised the steamer *Trent* as well as himself. On this point there was no room for doubt; but, on the other hand, every Cunard steamer which crossed the Atlantic — and no others crossed it then — carried despatches from the other belligerent, officially received and delivered as such, and this not between neutral ports, but between New York or Boston and Liverpool. Indeed, if the carrying of despatches and envoys had been disallowed, in strict accordance with the letter of the proclamation of May, it would have been necessary at that time for the United States Government to have installed an armed ocean mail and passenger service of its own. It cannot be denied that, as the British authorities laid the law down, and Captain Wilkes put it in practical operation, the ocean situation was mixed. Or, as an American publicist writing at the time, but without the slightest sense of suppressed humor, observed, "it must be admitted that the subject is an

embarrassing one.”¹ In point of fact it was a farrago of absurdities, contradictions and incongruities, over which learned men pondered and young girls prattled,² with results about equally satisfactory.³

Recurring from this digression to what occurred November 8th in the Bahama Channel, the officer deputed for the work by Captain Wilkes, acting under his instruction, thus, it appeared, arrested and seized only the “embodied despatches”; the despatches themselves were, it would seem, not made matter even of inquiry. As to this theory of “embodied despatches” in the persons of “private gentlemen of distinction,” known by general fame to be the agents of certain States in insurrection and an admitted “belligerent” but not as yet a recognized nationality, that was a figment of international law for which no precedent could be found in the treatises, devised *pro hac vice* by Captain Charles Wilkes, U. S. N.

Dismissing for the moment the extraordinary international law propositions involved, and recurring to the Wilkes point

¹ Dana, *Wheaton*, 659 n.

² Rhodes, *History*, III. 522 n.

³ The quite unintelligible and somewhat ludicrous state of what is termed Law, of the International variety, so far as the topic here in question is concerned, is presented in a concrete shape in Moore's *Digest*, VII. 768-779. The authorities are there cited, and the discussions of the *Trent* precedent referred to. The difficulty seems to arise from the attempt seriously made to apply the principles laid down by Vattel, etc., and the precedents established by Lord Stowell to present conditions. The existence of modern lines of common-carrier transportation of passengers, merchandise and mails under neutral flags between points not actually blockaded — lines like the Peninsula and Oriental, the Cunard and the White Star — seems not to have occurred to the publicists; while in fact the applying to the ships of such lines the rules under which Captain Wilkes thought he proceeded, and the application of which Mr. Seward afterwards gravely discussed, is hardly less opposed to reason and common sense than would be the attitude and efforts of a tailor who endeavored to adjust the dress of a seven-year-old boy to the body and limbs of the same boy when grown to be a man of unprecedented size. In each case the attempt is, or would be, unfortunate, and lead inevitably to results unexpected if not impossible. This apparently is the one real lesson the world derived from the *Trent* affair. It seems to be questionable, however, whether either the statesmen at the time took in the fact or the publicists since have realized it, and the consequent utter futility of what they attempted. Let the investigator substitute *Lusitania* for *Trent*, and consider what would necessarily result. To-day, the procedure of Captain Wilkes would, if of possible occurrence, be justly looked upon as showing *prima facie* evidence of insanity in the case of a naval officer responsible for it. Its single possible justification by his government would be found in Juvenal:

Hoc volo, sic jubeo, sit pro ratione voluntas.

of view, it is obvious that today any such action as that then taken by him would on the part of a naval officer be simply inconceivable. A similar hypothetical case needs only to be suggested in connection with the hostilities now going on in the Mediterranean between the Kingdom of Italy and the Ottoman Empire. Such a thing as a United States mail steamer running between New York, Gibraltar and Alexandria may not now exist, but it is supposable; and in such case the flag would certainly be found to signify something as respects personages as well as mail-bags. The celebrated Koszta case of more than half a century ago, though not a precedent strictly in point, would be revived in memory, and the spirit therein displayed again invoked. The conduct of a commander of a United States armed ship of superior force who, chancing to be in those waters, at once intervened, and forcibly "rescued" both mail-bags and persons from those who had thus exercised an alleged right of search and seizure, would be promptly approved and sustained. But, under the conditions I have referred to as prevailing in this country in the autumn and early winter of 1861, Captain Wilkes' conduct was officially approved by certain of those in authority, especially by the Secretary of the Navy and by the United States House of Representatives. It was even contended by high authorities that his acts were in substantial accordance with well-established principles of international law, to which, of course, when our turn came, we would yield a cheerful and graceful acquiescence. In other words, just fifty years later, the contentions and war of 1812 were on our part all a mistake; the British attitude at that time was correct; and the right of search, arrest and impressment were at last by us fully conceded!

Such was the logical aspect of the matter from the Wilkés point of view. Next perhaps to be considered in this cool semi-centennial perspective light are the popular, the official and the juristic points of view then assumed. So doing really now makes one who then lived and actively participated feel a little foolish; there is, however, a discipline, and even lesson perhaps, in a remorseless retrospect.

Personally, I have a vivid recollection of the day when the news of the seizure was flashed to Boston, and hurriedly plac-

arded on the newspaper bulletin boards.¹ A youthful legal practitioner, I was then a man of twenty-six. I had studied, or made an at least honest pretence of so doing, in the office of Richard H. Dana, Jr. Mr. Dana was deemed as high an authority on maritime law as there was at the American bar. Reading the announcement on the bulletin board, I hurried up to his office, and communicated the startling news. Well do I remember 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. And this was the view universally expressed and generally accepted.

The *San Jacinto*, having put into Fortress Monroe on the 15th of November, was, for various reasons, ordered to proceed at once to New York, and thence to Boston; there to deliver its prisoners for safe keeping. Captain Wilkes anchored his ship in Boston harbor on the 24th of November, and two days later a dinner was given him and his officers at the Revere House, the Hon. J. Wiley Edmands presiding. Mr. Edmands, prominent among the solid business men of Boston of that period, lived at Newton and was treasurer of the Pacific Mills; a Webster Whig in politics, he had been a member of the Thirty-third Congress. The speakers on this occasion seemed to vie with each other in establishing a record from which thereafter it would be impossible to escape. For instance, John A. Andrew, then Governor of Massachusetts, a man really great but of somewhat impulsive disposition, had been present in the office of the Secretary of the Navy when the news of the seizure came in. Literally swept off his feet, he had then sprung upon a chair and been prominent in the tumult of cheering which followed the announcement. He now at this public dinner² declared that Captain Wilkes had shown "not only wise judgment, but [his act was marked by] manly and heroic success." He referred to it as "one of the most

¹ Saturday, November 16. On the afternoon of that day the following despatch was sent from Washington: "The intelligence of the capture of Slidell and Mason has diffused the greatest possible joy among all the citizens, including the Government officials from the President down to the humblest messenger."

² An account of the affair will be found in the *Boston Evening Transcript*, November 27, 1861.

illustrious services that had made the war memorable"; and then most unnecessarily capped the climax of indiscretion by informing a delighted audience "that there might be nothing left [in the episode to] crown the exultation of the American heart, Commodore Wilkes fired his shot across the bows of the ship that bore the British Lion at its head." On the same occasion George T. Bigelow, then Chief Justice of Massachusetts, committed himself to an almost though not quite similar extent. First he voiced the very prevalent feeling already referred to, saying:—"In common with all loyal men of the North, I have been sighing, for the last six months, for some one who would be willing to say to himself, 'I will take the responsibility'; and who would not only say this, but when the opportunity offered would take the responsibility." The Chief Justice of our Supreme Court then went on to declare that "Commodore Wilkes acted more from the noble instincts of his patriotic heart, than from any sentence he read from a law book"; adding that, under such circumstances, "a man does not want to ask counsel, or, to consult judges upon his duty; his heart, his instinct, tells him what he ought to do." Well might the London *Times* in commenting on the affair observe shortly after—"These are wild words from lawyers." Captain Wilkes then, in language indicative of singular confusion of thought, said that before he had decided on his course, he had examined the authorities, and satisfied himself that these so-called envoys had none of the rights attaching to such functionaries when properly appointed; and, concluding that it was within his function to capture written despatches, assumed consequently that he had a right to take from under a neutral flag personages of distinction as the embodiment of despatches.

At Washington the Secretary of the Navy next addressed a congratulatory letter to Captain Wilkes on the "great public service" he had rendered, giving to his proceeding the "emphatic approval of this department." He, however, took pains to insist that the forbearance of the commander of the *San Jacinto* in this instance in not seizing the *Trent* and sending it into port for adjudication by a Prize Court "must by no means be permitted to constitute a precedent hereafter for the treatment of any case of similar infraction of neutral obli-

gations.”¹ In his annual official report a few days later, Secretary Welles further stated that the “prompt and decisive action of Captain Wilkes on this occasion merited and received emphatic approval.” On Monday, December 2, Congress assembled, and before the close of the first day’s session Mr. Lovejoy, of Illinois, offered a joint resolution thanking Captain Wilkes, “for his brave, adroit and patriotic conduct in the arrest and detention of the traitors, James M. Mason and John Slidell.” This resolution was passed by a unanimous vote; and, furthermore, the President was requested to present to Captain Wilkes “a gold medal with suitable emblems and devices, in testimony of the high sense entertained by Congress of his good conduct,” etc.¹ As to the irresponsible outpourings and journalistic utterances of those delirious three weeks, it is no exaggeration to say that, read to-day, they are more suggestive of the incoherences of the inmates of an insane asylum than of any well-considered expression of the organs of a sober and policed community, — a community which half a century only before had gone to war in defence of the great principles of immunity from ocean search, and seamen’s rights.

But, most noticeable and, perhaps, most suggestive of all the phases of that madness, were the utterances of the publicists, the supposed authorities on international law, and those who should have shown themselves the calmly poised leaders of public opinion. Here are some of them: — Theophilus Parsons was Dane professor of law at Harvard. Professor Parsons hurried into print with the following dictum: — “I am just as certain that Wilkes had a legal right to take Mason and Slidell from the *Trent*, as I am that our Government has a legal right to blockade the port of Charleston.” Caleb Cushing, in the administration of Franklin Pierce Attorney-General of the United States, was a publicist, and a reputed legal authority. Mr. Cushing now wrote: — “To conclude then: In my judgment, the act of Captain Wilkes was one which any and every self-respecting nation must and would have done by its own sovereign right and power, regardless of consequences. It was an act which it cannot be denied Great Britain would have done under the same circumstances.

¹ *War Records*, Series II. II. 1113.

At the same time, it was an act amply justified by the principles and doctrines of international jurisprudence."

I have already referred to R. H. Dana, and his exclamation on first hearing of Captain Wilkes' performance. Mr. Dana now wrote in an unsigned communication to the Boston *Advertiser*: — "In the present case, the mission [of the two envoys] is in its very nature necessarily and solely a mission hostile to the United States. It is treason within our municipal law, and an act in the highest degree hostile within the law of nations. If a neutral vessel intervenes to carry such persons on such a mission she commits an act hostile in the same degree. . . . We rather look to see Mr. Seward or Mr. Adams call the immediate attention of Her Majesty's Government to this violation of neutrality than to see Lord Lyons or Earl Russell addressing our Government on the subject."

Finally, Edward Everett, formerly the representative of the country at the Court of St. James and an ex-Secretary of State, than whom no one stood higher in general estimation as an authority on topics of this character, thus publicly expressed himself: — "You see that there is not the slightest ground for apprehension that there is any illegality in this detention of the mail packet; that the detention was perfectly lawful, the capture was perfectly lawful, their confinement in Fort Warren will be perfectly lawful, and as they will no doubt be kept there in safety until the restoration of peace — which we all so much desire — we may, I am sure, cordially wish them a safe and speedy deliverance."¹

¹ In an address on the State of the Country, delivered before the Middlesex Mechanics' Association, at Lowell, on Tuesday evening, December 24, 1861.

There has been a diversity of statement as respects Lewis Cass and his attitude and utterances in this connection. By some it has been asserted that he also was positive that the action of Captain Wilkes was justifiable, both on principle and by precedent. Such, however, was in no degree the case. On the contrary, the only recorded expression of opinion by Mr. Cass is refreshing from its correctness; its practical view of the matter also strongly coincided with what Lord Palmerston, as will next be seen, had said to Mr. Adams shortly before. The conclusions of General Cass are found in a letter addressed to Secretary Seward from Detroit, on the 19th of December, 1861. In his retirement from active political life, General Cass then wrote: — "Though I think it was justifiable upon the grounds laid down and acted upon by England, yet I considered it a most useless and unfortunate affair — an affair which from its evident importance should never have been undertaken by Captain Wilkes without express orders from his Government, and his interference is the more inex-

But the time at our disposal would not nearly admit of going through all the kaleidoscopic phases of this singular but most interesting and instructive international episode. The point of view now changes. We must imagine ourselves in London, and Englishmen.

On Tuesday, November 12, four days after the actual seizure of Messrs. Mason and Slidell, but fifteen days before an intimation of it reached England, Mr. Adams, then representing the country at the Court of St. James, made this diary entry — “Received a familiar note from Lord Palmerston, asking me to call and see him between one and two o’clock.” The note, of the briefest possible character, read as follows: —

92 PICCADILLY, 12 Nov., 1861.

MY DEAR SIR:

I should be very glad to have a few minutes conversation with you; could you without inconvenience call upon me here today at any time between one and two.

Yrs faithfully

PALMERSTON.

The Honbl. Mr. Adams.

Though Mr. Adams had at this time been nearly six months in London, his official relations had been exclusively with Earl Russell; and, though he had met Lord Palmerston several times, and more than once been a guest at Cambridge House, their intercourse had been social only. A few days before Mr. Adams had been present at the Lord Mayor’s dinner, and had been one of the speakers on that occasion. In his diary entry is the following: “The only marking speech being one from Lord Palmerston which had his customary shrewdness. He touched gently on our difficulties and at the same time gave it clearly to be understood that there is to be no inter-

cusable as he states in his report that in his search into the authorities upon the law of nations he could find no such case decided and was brought to consider the rebel commissioners as the ‘embodiment of despatches’ — I think is his phrase — in order to justify the arrest; a strange reason to be officially given for such a procedure. And what has amazed me more than anything else in this whole affair are the laudations bestowed upon Captain Wilkes for his courage in taking three or four unarmed men out of an unarmed vessel.” *War Records*, Series II. II. 1132. This position evinced consistency also, as Cass, when Secretary of State, had clearly and fully laid down the American principles of neutral rights in a despatch, June 27, 1859, addressed to John Y. Mason, then Minister to France, and a brother of James M. Mason.

ference for the sake of cotton." Shortly after, but before the news of the *Trent* affair arrived, Mr. Adams made the following further diary entry:—"In the evening Mrs. Adams and I went by invitation to Lady Palmerston's. A few persons only, after one of her dinners. We had been invited to dine ourselves, last Saturday, and are again invited for next Saturday evening. This civility is so significant that it must by no means be declined. . . . I touched Lord Palmerston a little on the event of the day, [the burning of the *Harvey Birch* by the Confederate cruiser *Nashville*], and reminded him of the connection which the *Nashville* had with our former conversation. He seemed good-natured and rather desirous to get information as to grounds on which to act." The relations between the two men had accordingly thus far been of an altogether friendly character. The diary entry of November 12 goes on as follows:—

This (Lord Palmerston's note) took me by surprise, and I speculated on the cause for some time without any satisfaction. At one o'clock I drove from my house over to his, Cambridge House in Piccadilly. In a few minutes he saw me. His reception was very cordial and frank. He said he had been made anxious by a notice that a United States armed vessel ¹ had lately put in to Southampton to get coal and supplies. It had been intimated to him that that object was to intercept the two men, Messrs. Mason and Slidell, who were understood to be aboard the British West India steamer expected to arrive tomorrow or next day. He had been informed that the Captain, having got gloriously drunk on brandy on Sunday had dropped down to the mouth of the river yesterday as if on the watch. He did not pretend to judge absolutely of the question whether we had a right to stop a foreign vessel for such a purpose as was indicated. Even admitting that we might claim it, it was yet very doubtful whether the exercise of it in this way could lead to any good. The effect of it here would be unfavorable, as it would seem as if the vessel had come in here to be filled with coal and supplies, and the Captain had enjoyed the hospitality of the country in filling his stomach with brandy, only to rush out of the harbor and commit violence upon their flag. Neither did the object to be

¹ The *James Adger*, commanded by Captain J. B. Marchant. In regard to this incident, see *Charles Francis Adams* (Am. Statesmen Series), 222-224; *Records of Union and Confederate Navies*, I. 128, 224; Adams, *Studies: Military and Diplomatic*, 394.

gained seem commensurate with the risk. For it was surely of no consequence whether one or two more men were added to the two or three who had already been so long here. They would scarcely make a difference in the action of the government after once having made up its mind.

The remainder of this diary entry is long, and not germane to the present occasion. I, therefore, omit it. But the extreme significance of the intimation thus unofficially and pleasantly conveyed was not apparent at the time; indeed it was not fully disclosed until half a century later. Mr. Adams never knew the motive cause of the interview he was describing, and consequently never appreciated the really kind purpose behind this most friendly action of the man at the head of the government to which he was accredited. It was an effort to forestall and prevent an international complication even more objectless than it was dangerous, a senseless wrangle over two men who were of no consequence anyway.

To appreciate the true significance of the interview described in his diary by Mr. Adams it is necessary to bear in mind that it took place on the 12th of November, the Confederate envoys having been taken on the 8th from the *Trent*. On the day preceding his talk with Mr. Adams, Lord Palmerston, it now appears, had addressed the following letter to J. T. Delane, the editor of the *Times*:

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. Such being

the opinion of our men learned in the law, we have determined to do no more than to order the *Phaeton* frigate to drop down to Yarmouth Roads and watch the proceedings of the American within our three-mile limit of territorial jurisdiction, and to prevent her from exercising within that limit those rights which we cannot dispute as belonging to her beyond that limit.

In the meanwhile the American captain, having got very drunk this morning at Southampton with some excellent brandy, and finding it blow heavily at sea, has come to an anchor for the night within Calshot Castle, at the entrance of the Southampton river.

I mention these things for your private information.

Yours sincerely,

PALMERSTON.

And, the following day, immediately after his talk with Mr. Adams, he further wrote: —

MY DEAR DELANE:

I have seen Adams today, and he assures me that the American paddle-wheel was sent to intercept the *Nashville* if found in these seas, but not to meddle with any ship under a foreign flag. He said he had seen the commander, and had advised him to go straight home; and he believed the steamer to be now on her way back to the United States. This is a very satisfactory explanation.

Yours sincerely,

PALMERSTON.

While the opinion of the officers of the Crown referred to was no mystery at the time, and is mentioned, though in much more general language, by Spencer Walpole in his *Life of Lord Russell* (II. 354-356), yet the statement here made of that opinion by Lord Palmerston is well calculated to excite surprise. It will be noticed that the officers referred to — the Lord Chancellor, Westbury, and Dr. Lushington being among them — are said to have laid it down as law that the belligerent had a right to stop and search any neutral, not being a ship of war, on the high seas, suspected of carrying enemy's despatches. Consequently, then, in this case, the Southern insurgents having been granted belligerent rights, the *San Jacinto* might, on English principles of international law, stop the *Trent*, search her, and if the Southern men were on board, either do exactly what Captain Wilkes had already just done, — take them out, and then allow the packet to proceed on its

voyage, — or seize the packet and carry her to some American port for trial and adjudication as prize.

Here is indeed another turn of the *Trent* kaleidoscope, — a British turn! That just half a century ago such an opinion as this should have been advanced as accepted international law seems incredible. It indicates clearly how confused, as well as archaic, the principles of that law were at the time in question in the minds of those supposed to be learned in it. No war involving maritime rights to any considerable extent had occurred since Waterloo. The precedents established in the English Prize Courts in the days of Napoleon's "Continental System" and the British "Orders in Council," and the principles then laid down, utterly regardless as they notoriously had been of the rights of neutrals, were held to be still law. Those precedents and rulings were of the most miscellaneous description and arbitrary character. Meanwhile, the world had progressed. It is, therefore, simply astounding to us in 1911 that the law officers of the Crown should in 1861 have advised her Majesty's government that an American ship-of-war might lie in the straits of Dover, and, having reason to suppose that an emissary of the Confederacy, carrying despatches, was on a certain steamer, — the Calais packet, for instance, — could stop the steamer in question, subject it to search, and either take out the envoy referred to, and his despatches, leaving the steamer then to complete its course, or could pronounce her a prize of war for violation of neutrality, and send her into port for adjudication! Or, to put the case in a different way, difficulties of a revolutionary character have recently occurred in Mexico, and are now, as is well known, agitating Portugal. Is it supposable that a Mexican or Portuguese man-of-war commissioned by the recognized government, rights of belligerency having for reasons of commerce or humanity been conceded, — is it, I say, even remotely supposable that, under such circumstances, a Mexican or Portuguese battleship could now lie in wait off Long Island on the course of the trans-Atlantic steamers, and, having sufficient reason to believe that either despatches were being carried in those steamers, or that a Mexican or Portuguese envoy was among its passengers, could proceed to stop and search the ocean-liner, forcibly arrest the persons in question, and with

them steam away, or, then and there, compel the ship — the *Lusitania* or the *Oceanic*, let us say — to abandon its voyage, and send it into a Mexican or Portuguese port for adjudication!¹ The thing is too absurd for a moment's consideration. Yet then it seems to have been laid down as the accepted law of Great Britain; and according to Lord Chancellor Westbury and Dr. Lushington, Mr. George Sumner, the brother of the Senator of the same name, was not wrong when at this time (November 22) he wrote to the New York *Tribune* that, "The act of Commodore Wilkes was in strict accordance with the principles of international law recognized in England, and in strict conformity with English practice." One American at least seems here to have then spoken correctly and by the book. He said "English principles" and "English practice"! If it was law and practice in Great Britain then, it was law and practice nowhere else; least of all in the United States.

But was the position thus taken sound as a proposition of even British law? This is open to grave question; nor did it pass unchallenged at the time. The point was well put by the Duke of Argyll, himself a member of the British ministry, in a letter to Mr. Adams written on the 25th of the following January.² Referring to the objection subsequently made to the act of Captain Wilkes that the *Trent* was not taken into port for adjudication, he characterized it as one made on "a narrow and technical ground." He then proceeded as follows: "This is a very minor objection, tho' so far as it goes, a sound one. But the real objection I hold to be a much stronger one, *viz.*, that a neutral vessel, with a bona fide, *neutral destination*,

¹ These very instances were at the time cited as possibilities by Earl Russell in his despatch to Lord Lyons, closing the discussion on the side of the British government. In addition thereto the following — "So also a Confederate vessel-of-war [*e. g.* the *Alabama*] might capture a Cunard steamer on its way from Halifax to Liverpool, on the ground of its carrying despatches from Mr. Seward to Mr. Adams." It is difficult now of belief that in 1861 an experienced American naval officer should have undertaken to establish a precedent logically implying such obvious consequences, and this on his own initiative; that the most learned legal authorities in America should have unequivocally sustained him in such an act, insisting on its unquestionable legality, fairly surpasses belief. Yet the evidence is conclusive that at the time American public opinion was well-nigh unanimous in support of the proposition, and had persuaded itself, or was persuaded, that Great Britain should be held to a future strict responsibility and account for failing to give immediate and willing assent to it.

² See *Mass. Hist. Soc. Proceedings*, Vol. 45, p. 137.

cannot contain contraband of war at all, and that civilians, especially, bound for a neutral country cannot, under any circumstances, be held to be subject to seizure as Contraband. I venture to affirm that no decision of any of our Judges, nor any act of our Government can be cited as inconsistent with this doctrine."

This, even if advanced by a layman, was certainly good sense, and probably sound law. Admitting, however, that as a mere proposition of existing law, wise or not wise as a question of policy, the British precedents and practice were as laid down by the law-advisers of the Crown, if such a contingency as that of the *Trent* arose there was but one course to be pursued by any self-respecting nation. If such was once the law, the world had outgrown it; it was law no longer. In any event, it could not possibly be observed as such by any nation powerful enough to set it at naught. The case did not admit of argument.

The course, therefore, to be pursued by the British Government under the circumstances which then confronted it, was simple, and exactly the course that was pursued. The matter was referred back to the law officers of the Crown, with instructions to reconsider the subject. The subject was reconsidered, and different conclusions arrived at. Nevertheless, those conclusions commend themselves little more to present judgment than the previous opinion. It was now held that what had been done in the *Trent* case was illegal because in assuming authority under the accepted law of nations, as laid down in the reports and treatises, Captain Wilkes had undertaken to pass upon the issue of a violation of neutrality on the spot, instead of sending the *Trent* as a prize into port for judicial adjudication. There is about the position thus assumed in 1861 something which seems in 1911 little short of the grotesque. Nevertheless, so the case stood at that time; and, as mere technical law, the point probably was, as the Duke of Argyll said in his letter to Mr. Adams, well taken. At any rate it met in a way the requirements of that particular occasion, and was gravely advanced and argued over *pro* and *con* by able and adroit men holding high official positions. It was, however, recognized all through as a solemn farce. As a question of practical statesmanship, the world manifestly had

burst asunder those particular swaddling clothes. It is contentions of this character which bring law into contempt.

One more turn of the kaleidoscope, and I am through for this occasion. Leaving London and the legal advisers of Her Majesty's Government, we travel back to Boston. The *San Jacinto*, with the two Confederate envoys on board, — more guests of the Captain than prisoners of state,¹ — steamed into Boston harbor on the 24th of November. Fort Warren had been designated as, *pro hac vice*, the American Tower, or Bastille. Fort Warren is situated on George's Island, commanding the main ship-channel, so called, at the entrance of Boston harbor. Small in area, the island is almost entirely covered by the fort; and, as is well known, the sea-shore of Massachusetts Bay is, as a winter resort, inclement. Though, as already mentioned, both Mr. Mason and Mr. Slidell were peculiarly obnoxious to the loyal North and especially to New Englanders, there were a number of residents of Boston who had in one way or another been personally associated with them in former times, and even under obligations to them. Among these was Mr. Robert C. Winthrop, long a member of Congress from Massachusetts, speaker of the national House of Representatives, and, for a time, the occupant of a seat in the United States Senate. Those were the days of the comparatively "simple life" in Washington, and while in the Senate together Mr. Mason and Mr. Winthrop had belonged to the same "mess," as the boarding-house arrangements of those days were termed. As Mr. Winthrop now wrote in a familiar letter to Mr. John P. Kennedy, another of his Congressional associates, referring to the dedication in 1857 of the statue of Joseph Warren in Bunker Hill monument, when he had introduced both Mr. Mason and Mr. Kennedy, — "His tone was insolent enough on that occasion,² yet I will not triumph over him now. . . . I sent down some sherry a fortnight ago, and offered to go myself, but the officer said I could speak to none of them. . . . I also helped to get some great coats to prevent the North Carolina soldiers from freezing." There certainly was biblical authority for such action under these circumstances on the part of Mr. Winthrop. At the same juncture, it so chanced that Colonel H. Raymond

¹ Mason, *Public Life*, 224, 225.

² But on this point see Mason, *Public Life*, 123-125.

Lee and Major Paul J. Revere, of the 20th Massachusetts Volunteers, were with other Massachusetts officers prisoners of war at Richmond. It cannot be denied that as such they were treated with great severity, almost indeed as if they had been common criminals. If, however, at that time any prominent citizen of Richmond, who had previously received attentions at their hands in Boston, had endeavored to alleviate the hardships of prison life, we can feel assured he would have been denounced by the Southern press as supplying luxuries to those who could only be compared with the minions of Attila or some other great barbarian destroyer. In those days somewhat exaggerated metaphors and comparisons were in over-common use, and, as will immediately be seen, history quite failed to supply either of the two sides with precedents or examples equal to the occasion's requirements. Until then the lowest depths of depravity had not been sounded; "history did not record," etc., etc.! And yet even at that juncture such Samaritan action as that suggested on the part of some Richmond resident towards Lee and Revere would hardly have been regarded in Boston as conduct suitable for bitter denunciation only. Thus viewed, *in alteram partem*, it is curious now to read the bitter words in which the very simple courtesy of Mr. Winthrop and others was denounced by the New England press. The Boston *Transcript*, for instance, in its issue of Thursday evening, December 12, 1861, gave vent to the following growl: "We beg to suggest to those whom it may concern to leave the care of men, one of whom is the personification of arrogance, and the other of craft, to the proper authorities. We beg them not again to outrage public opinion by sending their champagne and other luxuries to the avowed enemies of the United States." And yet this merely echoed an utterance from Governor Andrew, conveyed in a private but published letter dated at the State House, December 11th. Referring to what he termed "the numerous manifestations of misplaced sympathy by some citizens of Boston with the rebel prisoners confined at Fort Warren," Governor Andrew then said: "I fully appreciate your feelings in this matter, and share with the writer of the *Post* in his condemnation of that sympathy with traitors, which makes men in comparison with whom Benedict Arnold was a saint, comfortable in their confinement, while our own brave defenders

of liberty and Union and the rights of man, are cut off from all such sympathy by the rigorous despotism of the Southern oligarchy, — but I do not know of anything that I can do to prevent it.” When such utterances emanate from a man of the high character and natural kindliness of Governor Andrew, it is possible for those who did not, as well as for those who did live in those times, to imagine the grim murkiness, so to speak, of the language elsewhere heard. For example, here is an illustrative extract from the newspapers of the time: “Mr. Wendell Phillips, in a lecture delivered at the New Music Hall on the evening of Wednesday, November 27, 1861, observed: ‘If at the outbreak of the present troubles Breckinridge, Mason, Slidell, Toombs, Hunter, Wise, and others had been hung, and a frigate or two had been sent to Charleston, Savannah and New Orleans, and shelled those cities, there never would have been any rebellion.’” Mr. Phillips was never conspicuous for tolerance or for moderation of speech, nor could any marked degree of sanity of judgment be fairly attributed to him; it is, however, at this distance of time curious to learn that even he should in 1861 have so utterly misjudged the courage as well as the earnestness of the South. But in 1911 it has an even more curious and exaggerated sound to hear John A. Andrew referring to the two Confederates in question as men in comparison with whom “Benedict Arnold was a saint.” Whatever may be said against either Mr. Mason or Mr. Slidell, — and much certainly can in both justice and truth be said, — it can never be asserted that they were guilty of treachery or of secret treasons. They proclaimed their opinions loudly enough, and thereon, early and late, “made good.” Nevertheless, Mr. Winthrop’s attitude towards them on this occasion excited so much feeling that he wrote to his friend Kennedy as follows: “A miserable clamor has been raised by a few of our bitter spirits because some persons have sent down a few creature comforts to alleviate the condition of old friends. One of our malignant presses calls us sympathizers in Rebellion and threatens to send our names to the Secretary of State! I hope you will give Seward to understand that a malicious spirit of misrepresentation prevails in this quarter, which vents itself upon everybody who is not ready to embark in an Abolition Crusade. For myself, I have done so little for the prisoners, that I feel a compunction at

having seemed wanting in kindness. It is wretched policy not to treat them with humanity and consideration." This episode constitutes a mere insignificant footnote in the record of that period; but it brings forcibly to mind the morbid and unreasoning state of public opinion.

One point further, and a point curiously illustrative of the thoroughness with which this particular piece of historical ground has been gone over, and the difficulty of now reaching any novel conclusions in regard to those who played their parts in connection with it. As a final result of recent investigations I had reached the conclusion that, among those occupying positions of prominence and political responsibility in American public life at the time, two only preserved their poise throughout the Mason and Slidell episode, and, taking in all the aspects of the situation, both acted with discretion and counselled wisely. These two were Montgomery Blair, the Postmaster General in Lincoln's Cabinet, and, somewhat strange to say, Charles Sumner. They alone, using the vernacular, did not "slop over," prematurely and inconsiderately committing either themselves or the country, whether in private speech or public utterance. Though not quoted at the time, Mr. Blair's attitude was the more pronounced. According to Secretary Welles, he "from the first denounced Wilkes's act as unauthorized, irregular and illegal"; and even went so far as to advise that Wilkes be ordered to take the *San Jacinto* and go with Mason and Slidell to England, and deliver them to the British Government.¹ In view of the excitement and unreasoning condition of the public mind such a disposition of the question was, perhaps, practically impossible; though even this admits of question. Nevertheless, seen through the vista of half a century, this would clearly have been the wisest as well as the most dignified course to pursue, far more so than that ultimately adopted; for, as Secretary Welles, a dozen years later, wrote, "the prompt and voluntary disavowal of the act of Wilkes, and delivering over the prisoners, would have evinced our confidence in our own power, and been a manifestation of our indifference and contempt for the emissaries, and a rebuke to the

¹ This course was, it is said, also at the moment advocated by General McClellan, then organizing the Army of the Potomac, and practically commander-in-chief in succession to General Scott. Russell, *My Diary*, II. 405.

alleged intrigues between the rebels and the English cabinet.”¹ Mr. Welles might have further remarked that such a disposition of the matter, besides being in strict consistency with a long-proclaimed international policy, would have afforded for the navy a most salutary disciplinary example.

As I have said, the attitude and bearing of Mr. Sumner throughout those trying days was above criticism. With a proper sense of the responsibility due to his official position, that of Chairman of the Senate Committee on Foreign Relations, he was silent, biding his time; and, when that time came, he used his influence in such a way as to produce results not wholly unworthy of a great nation passing through a trying ordeal. This conclusion I had reached, and was prepared to set forth as one that might have a certain degree of novelty as well as weight, the matured judgment of half a century subsequent to the event. Fortunately for myself, before so doing, I glanced once more over the pages of our associate, Mr. James Ford Rhodes. In the chapter of his *History* (III. 523-524) in which he deals with the affair of the *Trent*, I then found the following: — “Of all the men in responsible positions, Sumner and Blair saw the clearest. They were in favor of at once surrendering to England the Confederate Commissioners.”

My “novel” judgment, slowly reached at the close of half a century, had been, it would thus appear, anticipated by my associate here by about sixteen years!

But there is another aspect of the *Trent* affair and its outcome, which, from the historical point of view, is, I believe, novel; and that in closing I propose to bring to view, emphasizing it as forcibly as I can. But in order to appreciate this aspect of the affair it is necessary clearly to bear in mind the sequence of events, the intervals of time which elapsed and the exact date of each occurrence. The arrest of the *Trent* and the seizure of the two envoys took place in the Bahama Channel, November 8; the interview between Lord Palmerston and Mr. Adams at Cambridge House, at which Lord Palmerston suggested that the presence of the two envoys in Europe was

¹ *Lincoln and Seward* (1874), 186-187. This was an opinion formed later and on more mature reflection. At the time of the occurrence of the “affair” the attitude of Secretary Welles was pronounced, and his utterances were peculiarly indiscreet as well as precipitate. See *Diary*, I, 299, 466, 490.

“of no consequence” and “would scarcely make a difference in the action of the government” was on the 12th, and the despatch of Mr. Adams conveying this most significant intimation to Secretary Seward was received by the latter before November 30. This was fourteen days after the news of the seizure had been made known in the United States (November 16) and the public excitement had already begun to subside. Tidings of the affair had reached England three days only before, on the 27th, and the despatch of Earl Russell to Lord Lyons demanding the immediate surrender of the two envoys, dated November 30, reached Washington December 18, or a little over a full month after the news of the seizure of the envoys had made wild the American public.

At the time great emphasis was laid on the general preparations for war entered upon by the British government in case of a refusal to yield to the ultimatum presented. It was here pronounced unnecessary, irregular, minatory, and insulting; and subsequent American historical investigators and publicists have continued to so pronounce it. There is no question that Great Britain was in dead earnest in its demand for immediate reparation, and acted accordingly. The arsenals were busy; all available forces were mobilized; troops embarked for Canada.

And why such daily cast of brazen cannon,
 And foreign mart for implements of war;
 Why such impress of shipwrights, whose sore task
 Does not divide the Sunday from the week.
 What might be toward . . .

The answer was ready; as was then alleged, and has since been reiterated, it was on the part of Great Britain a case of uncalled for, unnecessarily offensive braggadocio and bullying; and it was resented as such. Yet something was, and is, fairly to be said on the other side. The critics were not careful as to their facts, the sequence of events and the natural operation of cause and effect. Again it is necessary to bear dates clearly in mind. Commenting on this phase of the “affair,” R. H. Dana, for instance, with singular carelessness says in his elaborate note in his edition of Wheaton — “The news of the capture of Messrs. Mason and Slidell reached Washington about the same

time it reached London.”¹ This is erroneous, and the error vitiates Mr. Dana’s whole criticism on the minatory course pursued by Great Britain. The news of the seizure, not “capture,” reached Washington November 16; the same news did not reach London until the 27th, or eleven days later. Those eleven days of difference were pregnant with consequences; for during them the United States went crazy, and it was then that the news both of the seizure and of the storm of American approval thereof reached London “about the same time.” The announcement a few days later of the Governor of Massachusetts at the Wilkes dinner in Boston (November 26) that “a shot fired across the bows of the ship that bore the English lion’s head” had filled to the brim the cups of America’s satisfaction over the event, followed hard by the “emphatic approval” of the act of the Secretary of the Navy and its unanimous endorsement by Congress — these surely were not utterances or incidents calculated either to allay British excitement or to lead to a countermand of warlike preparation. Even on the very eve of the surrender, it was publicly alleged and on excellent authority that the President had emphatically announced: — “I would sooner die than give them up.” This probably was not true; it was, however, believed both in Washington and in London. In London also it was suspected, especially in inner ministerial circles,² — and on good grounds

¹ *Wheaton*, 654, n.

² The Duke of Newcastle, who had accompanied the Prince of Wales in his visit to America in the summer and autumn of 1860, was at this time Colonial Secretary in the Palmerston-Russell government. On June 5, 1861, five months before the occurrence of the *Trent* affair, he thus wrote in an official letter to Sir Edmund Head, Governor-General of Canada: — “I entirely concur in what you say in your letter of the 18th May about Mr. Seward’s speculations and unfriendly views towards Canada, but I think you hardly make sufficient allowance for his hyper-American use of the policy of bully and bluster. When I saw him at Albany last October he fairly told me he should make use of insults to England to secure his own position in the States, and that I must not suppose he meant war. On the contrary, he did not wish war with England, and he was confident we should never go to war with the States — we dared not and could not afford it.”

On December 5th following, in the heat of the excitement of the *Trent* affair, Newcastle wrote to Lord Monck, then in command of the forces in Canada: — “Soon after your last letter was written [November 16] you must have learnt of the affair of the *Trent*, and the serious complications which it must produce. I am bound to warn you that war is too likely to be the result. Such an insult to our flag can only be atoned by the restoration of the men who were seized when under its protection, and with Mr. Seward at the helm of the United States,

it has since appeared, — that Mr. Seward had, only a few months previously, desired to provoke trouble with Great Britain with ulterior purposes in view. The opportunity for so doing had now presented itself; nor was there any reason to suppose that the views of the Secretary had recently undergone change. Under such circumstances, however, it was perhaps in no way so remarkable, nor did it afford just ground for animadversion, that the din of preparation for war in the one country was concurrent with the din of approval of the seizure in the other.

Meanwhile the news of the excitement occasioned throughout Great Britain by Wilkes' act had reached America on the 12th, six days before the arrival of Russell's ultimatum. The dates necessary to bear in mind are therefore the 16th of November,

and the mob and the Press manning the vessel, it is too probable that this atonement may be refused."

To the same effect, William H. Russell wrote as follows to the *Times*: — "In the present temper of the American people, no concessions can avert serious complications very long, or the surrender of all the boasted privileges of the *Civis Romanus*. . . ."

"There is a popular passion and vengeance to be gratified by the capturing and punishment of Mr. Mason and Mr. Slidell, and I believe the Government will retain them at all risks because it dare not give them up, not being strong enough to do what is right, in the face of popular sentiment. . . . I was much struck with the deep spirit of animosity displayed by some friends of mine, for whom I entertain a great respect, in speaking of the probable act of Great Britain: — 'If we are forced now in our hour of weakness to give up Mason and Slidell, I trust to God that every man in America will make a solemn resolve to let England feel the force of our resentment and an undying revenge when next she is involved in any difficulty.'" Letter of November 12, printed in the issue of the *Times* for December 3, 1861.

"As I write there is a rumour that Messrs. Mason and Slidell are to be surrendered. If it be true this Government is broken up. There is so much violence of spirit among the lower orders of the people, and they are so ignorant of everything except their own politics and passions, so saturated with pride and vanity that any honorable concession even in this hour of extremity would prove fatal to its authors." From letter dated November 25, in the issue of the *Times* of December 10, 1861.

The general understanding and accepted popular conviction in Great Britain was thus set forth in an editorial in the *Illustrated London News* of December 14, 1861: "While it is broadly stated on all hands on this side of the water that a restoration of the old Union is assuming the aspect of an impossibility, it has been whispered that such an opinion has secretly taken root in the minds of the Cabinet at Washington, and that a contest with England is adopted as a policy out of which may spring a pretext for the ultimate acknowledgment of the independence of the South. If this is really the case, why, all ground for argument is cut away, and it must be readily admitted that no course more calculated to attain that end could have been selected than that of bringing on a quarrel with this country."

when the news of the seizure reached America; the 27th, when the same news reached Europe; the 12th of December, when the extreme seriousness of the situation first dawned on the American mind through tidings of the British excitement and consequent demands; and, finally, the 18th of December, when it became apparent that a decision as to the course to be by it pursued had to be reached within one week by the American Government. Thus, between the date of the arrival of the *San Jacinto* at Hampton Roads (November 15), and the announcement from Washington that the envoys would be surrendered (December 26) forty days elapsed. This was a most important factor; for, as the result showed, during that period the popular effervescence had time in which to subside, while by the forty-first day the sober second thought might to a degree be invoked with some assurance of a response. An Anglo-Saxon community rarely goes daft permanently.

It was so in this case; and, though both in public and private, some, like Hale of New Hampshire and Lovejoy of Illinois in Congress, and two of the sons of Mr. Adams in private correspondence, foamed at the mouth, swearing inextinguishable hatred of Great Britain and asseverating an unalterable determination to bide their time for revenge on that arrogant and overbearing nationality,¹ so far as the great body of public

¹ The absurdities and excesses of speech into which the prevailing epidemic of excitement led people at this juncture seem now simply incredible. For instance, one gentleman rushed into print proposing as a remedy for existing conditions that Mason and Slidell should at once be tried, convicted of treason, sentenced, and hanged,—this before Great Britain could formulate demands for their surrender. The whole difficulty, he claimed, would thus be disposed of. •

The favorite formula, however, seems to have been of a Hamilcarian character,—that is, the swearing of one's offspring to eternal hatred. Of this there were many cases; for example, Mr. Lovejoy, a member of Congress, of Illinois, thus expressed himself on the floor of the House of Representatives on the afternoon of January 7, when the correspondence between Secretary Seward and the British Government, relative to the *Trent* case, were laid before the House: "I am made to renew the horrible grief which I suffered when the news of the surrender of Mason and Slidell came. I acknowledge it, I literally wept tears of vexation. I hate it; and I hate the British government. I have never shared in the traditional hostility of many of my countrymen against England. But I now here publicly avow and record my inextinguishable hatred of that government. I mean to cherish it while I live, and to bequeath it as a legacy to my children when I die. And if I am alive when war with England comes, as sooner or later it must, for we shall never forget this humiliation, and if I can carry a musket in that war I will carry it. I have three sons, and I mean to charge them, and do

opinion was concerned the insanity passed away almost as suddenly as it had asserted itself. Reason resumed its sway.

And yet, while this greatly to the credit of the American people proved in the outcome to be the case, at the time such grave doubt was felt as to the popular reception of the decision to surrender the envoys that they were actually smuggled out of Boston harbor, Provincetown being selected as the point of delivery to a British frigate. This was suggested by Mr. Seward to Lord Lyons as the better course, the Secretary being "apprehensive that some outrage would be offered by the populace to the prisoners and the British flag." No sufficient grounds in reality existed for any such apprehension, but at the same time a reliable correspondent wrote from Boston to Charles Sumner that "the whole population were terribly excited, ready to plan any kind of an expedition to sink the vessel that should be sent to convey the Rebels from Fort Warren."¹ So general was this belief that Russell, the *Times* correspondent, then at Washington and in very direct daily communication with the best informed authorities, "resolved to go to Boston being satisfied that a great popular excitement and uprising will, in all probability, take place."² The delivery did not, however, in fact, occasion a ripple of lawlessness.

Such being the facts of the "affair" and the dates of the occurrences in its development, it is of interest now, and certainly not without its value as matter of experience, to consider the courses then possible to have been pursued by the United States and to contrast them, coolly and reflectively, with that which was actually pursued. And in so doing the

now publicly and solemnly charge them, that if they shall have at that time reached the years of manhood and strength, they shall enter into that war."

To the same effect Captain Dahlgren, of the navy, vowed to Mr. Russell that if England should avail herself "of the temporary weakness of the United States to get back the rebel commissioners by threats or force, every American should make his son swear eternal hostility to Great Britain."

Finally, one of Mr. Adams' sons, writing to his father, expressed himself in the same vein, as follows: — "I at least would care to impress but one thing on a son of mine, and that should be inveterate, undying, immortal hatred of Great Britain. In this I do not feel that I am at all exaggerating the general feeling here." He wrote December 30, 1861.

A curious collection might be made of utterances of the same import at that juncture.

¹ *Works*, VIII, 102.

² Russell, *My Diary*, II, 428-429.

thought which first suggests itself is one not conducive in us to an increased sense of national pride. What an opportunity was then lost! How completely our public men, and through them our community, failed to rise to the height of the occasion! For, viewed in the perspective of history, it is curious, and for an American of that period almost exasperating, to reflect upon what a magnificent move in the critical game then conducted would have been made had the advice of Montgomery Blair been followed to the letter and in spirit. To carry out the simile, by such a playing of the pieces on the board as he suggested, how effectually a checkmate would have been administered to the game of both the Confederates and their European sympathizers! In the first place, the act of Wilkes, as was subsequently and on better reflection universally conceded, was ill-considered, improper, and in violation of all correct naval usage. It should have been rebuked accordingly, and officers should have been taught by example and at the commencement that they were neither diplomatic representatives nor judicial tribunals administering admiralty law. It was for them to receive instructions and implicitly to obey them. A reprimand of much the same nature was at almost this very time administered to General John C. Frémont, when in Missouri he undertook by virtue of martial law to proclaim the freedom of the slave throughout the military department under his command. His ill-considered order was revoked; and he was officially instructed that he was to confine himself to his military functions, and that the administration reserved to itself all action of a political character. So much for Captain Wilkes, and the reprimand he should have received because of his indiscreet and unauthorized proceeding.

Next, such a line of conduct would have been on the part of the Government in severe and manly adherence to the past contentions of the United States. It would have recognized in the action taken by Wilkes an attempt to carry the right of search and power of impressment far beyond any precedent ever established by the British Government, even in the days of its greatest maritime ascendancy, and consequent arrogance. In the strong and contemptuous language of Mr. Adams, America, in sustaining Wilkes, was consenting "to take up and to wear [Britain's] cast-off rags." If, instead of so bedizening

itself, the United States had boldly, defiantly, and at once now adhered to its former contentions, its attitude would have been simply magnificent; and, as such, it would have commanded respect and admiration.

Nor was this aspect of the situation wholly unseen by some at the time; for, writing from his post in London to J. L. Motley in Vienna on the 4th of December, 1861, the date at which the tension between the United States and Great Britain was at the breaking point, Mr. Adams thus expressed himself: "It ought to be remembered that the uniform tendency of our own policy has been to set up very high the doctrine of neutral rights, and to limit in every possible manner the odious doctrine of search. To have the two countries virtually changing their ground under this momentary temptation would not, as it seems to me, tend to benefit the position of the United States.¹ Whereas, a contrary policy might be made the means of securing a great concession of principle from Great Britain. Whether the government at home will remain cool enough to see its opportunity, I have no means of judging." And a few days later — December 7, 1861 — John Bright, writing to Charles Sumner, expressed himself to the same effect: "You may disappoint your enemies by the moderation and reasonableness of your conduct, and every honest and good man in England will applaud your wisdom. Put all the fire-eaters in the wrong, and Europe will admire the sagacity of your Government." "Sagacity of your Government!" That phrase expressed exactly what the situation called for, and got only in a very modified degree.

Taken immediately and openly in the presence of the whole world, the position advised by Blair would have indicated the supreme confidence we felt in our national power, and the pro-

¹ The timidity and hesitation with which Americans then advanced, for it cannot be said they really advocated, the traditional American policy, are fairly matter of surprise. For instance, in a letter to the *London Times*, printed in its issue of December 14, — a letter which Mr. Adams criticised at the time as being "a little too smooth and deprecating," — Mr. Thurlow Weed thus cautiously referred to the law as laid down by Lord Stowell: "Were I at all qualified to enter into the legal argument I should be inclined to accept your view of the question, to wit, that time and circumstances have so far changed the practice, reformed the principles of international maritime law as to render the earlier precedents and authorities largely inapplicable to existing cases." *Memoir of Thurlow Weed*, II. 354.

nounced contempt in which we held both those whom we called "rebels" and those whom they termed their "envoys." If reached and publicly announced after mature deliberation during the week which followed the announcement of the seizure from Fortress Monroe (November 23), as trans-Atlantic communication was conducted in those days the news would scarcely have reached England before the 3d of December, just three days after the peremptory and somewhat offensive despatch of Earl Russell demanding the immediate surrender of the arrested envoys was beyond recall or modification, well on its way to America. A situation would have resulted almost ludicrous so far as Great Britain was concerned, but, for the United States, most consistent, dignified and imposing. Excited, angry, arrogant, bent on reparation or war, Great Britain would have been let down suddenly, and very hard and flat. Its posture would, to say the least, have been the reverse of impressive. But for us it would have established our prestige in the eyes of foreign nations, and once for all silenced the numerous emissaries who were sedulously working in every part of Europe to bring about our undoing through foreign interference. In particular, the immediate delivery of the envoys, in advance of any demand therefor and on the very ship which had undertaken to exercise the right of search and seizure under the command of the officer who had thus exceeded his authority and functions, would, so to speak, have put the Government of Great Britain thenceforth under bonds, so far as the United States was concerned. Thereafter any effort, either of the "envoys" thus contemptuously surrendered or of other Confederate emissaries, would, so far as this country was concerned, have been futile. Reciprocity would from that moment have been in order, and all question of foreign recognition would have ceased. The whole course of international events in the immediate future would probably have been far different from what it was; for with what measure we had used, it would necessarily have been measured to us again.

Such a line of conduct immediately decided on and boldly declared would have been an inspiration worthy of a Cavour or a Bismarck; but, though actually urged in the Cabinet meetings by Montgomery Blair, its adoption called for a grasp

of the situation and a quickness of decision which, very possibly, could not reasonably be expected under conditions then existing. It also may even yet be urged that, if then taken and announced, such a policy would have failed to command the assent of an excited public opinion. That it would have failed to do so is, however, open to question; for it is more than possible, it is even probable, that American intelligence would even then have risen at once to the international possibilities presented, and in that crisis of stress and anxiety would have measured the extent to which the "affair" could be improved to the public advantage. The national vanity would unquestionably have been flattered by an adherence so consistent and sacrificing to the contentions and policies of the past. The memories of 1812 would have revived. However, admitting that a policy of this character, now obviously that which should have been pursued, was under practical and popular conditions then prevailing at least inadvisable, it remains to consider yet another alternative.

Assuming that the course pursued remained unchanged an entire month after the seizure, and up to the 12th of December, when the news arrived in America of the excitement occasioned by the seizure in Great Britain and the extreme seriousness of the situation resulting therefrom,—assuming this, it is now obvious that the proper policy then and under such conditions to have been adopted, although it could not have produced the results which would have been produced by the policy just considered if adopted and announced ten days earlier, would still have been consistent and dignified, and, as such, would have commanded general respect. It was very clearly outlined by Mr. Adams in a letter written to Cassius M. Clay, then the representative of the country at St. Petersburg, in the following month. He expressed himself as follows:—“Whatever opinion I may have of the consistency of Great Britain, or of the temper in which she has prosecuted her latest convictions, that does not in my judgment weigh a feather in the balance against the settled policy of the United States which has uniformly condemned every and any act like that of Captain Wilkes when authorized by other nations. The extension of the rights of neutrals on the ocean and the protection of them against the arbitrary exercise of mere

power have been cardinal principles in the system of American statesmen ever since the foundation of the Government. It is not for us to abandon them under the transient impulse given by the capture of a couple of unworthy traitors. What are they that a country like ours should swerve one hair from the line of its ancient policy, merely for the satisfaction of punishing them?"

If the advisers of Mr. Lincoln had viewed the situation in this light, when his Secretary of State sat down to prepare his answer to the English demand he would at once with a bold sweep of the hand have dismissed as rubbish the English precedents and authorities, reverting to the attitude and contentions uniformly and consistently held by the Government for which he spoke, during the earlier years of the century. The proceeding of Captain Wilkes would then have been pronounced inconsistent with the traditions and established policy of the United States, and the line of action by it to be pursued in the case immediately presented would have been dictated thereby. The course to be pursued on the issue raised was clear, and the surrender of the envoys must be ordered accordingly; — and this in no degree because of their small importance, as suggested by Lord Palmerston in his talk with Mr. Adams — though unquestionably the fact would have secretly exercised no little influence on the mind of the Secretary — and still less was it ordered because of any failure of Captain Wilkes to seize the *Trent* as prize on the ground of alleged breach of neutrality: but exclusively for the reason that the seizure in question was unauthorized, in direct disregard of the established policy of the United States and its contentions in regard to the rights of neutrals, clearly and repeatedly set forth in many previous controversies with the Government represented by Earl Russell. From that policy, to quote the language of Mr. Adams, "this country was not disposed to swerve by a single hair's breadth." In accordance with it, delivery of the so-called "envoys" was ordered.

Again, an opportunity was lost! Such an attitude would have been dignified, consistent and statesmanlike. It would have had in it no element of adroitness and no appearance of special pleading. It could hardly have failed immediately to commend itself to the good judgment as well as pride of

the American people, and it would certainly have commanded the respect of foreign nations.

Of the elaborate, and in many respects memorable, despatch addressed by Secretary Seward to Lord Lyons, in answer to the categorical demand for the immediate release of the two envoys,¹ it is not necessary here to speak in detail. It is historical, and my paper has already extended far beyond the limits originally proposed. Of this state paper I will therefore merely say that, reading it now, "clever," not "great," is the term which suggests itself as best descriptive. Much commended at the time, it has not stood the test.² In composing it, the

¹ In his official despatch conceding the surrender of the envoys, Mr. Seward observed that the British claim for reparation was not made "in a discourteous manner." A later writer, however, has referred to the "indecent haste and manifest unfairness of the whole proceeding, as well as the bombast and implied threats" contained in Lord Russell's letters to Lord Lyons. Without going into details on this subject, it may however be observed that, so far as the United States is concerned, the despatch in question, as respects either language or peremptoriness of tone, would compare not unfavorably with the subsequent attitude and utterances of our spokesmen in the case of the difficulty of this country with Chili, as set forth in President Harrison's message of January 12, 1892, anent the assault on American sailors in Valparaiso; or with those of President Cleveland as embodied in the memorable Venezuela message directed at Great Britain, December 17, 1895; or with those of President McKinley in his message of April 11, 1898, communicating his ultimatum preceding the war with Spain; or with the course adopted by President Roosevelt in February, 1904, towards the United States of Colombia, as respects the independent Republic of Panama, proclaimed as per arrangement the day previous by a band of trembling conspirators. To the record in all these cases it is unnecessary in this connection more particularly to refer.

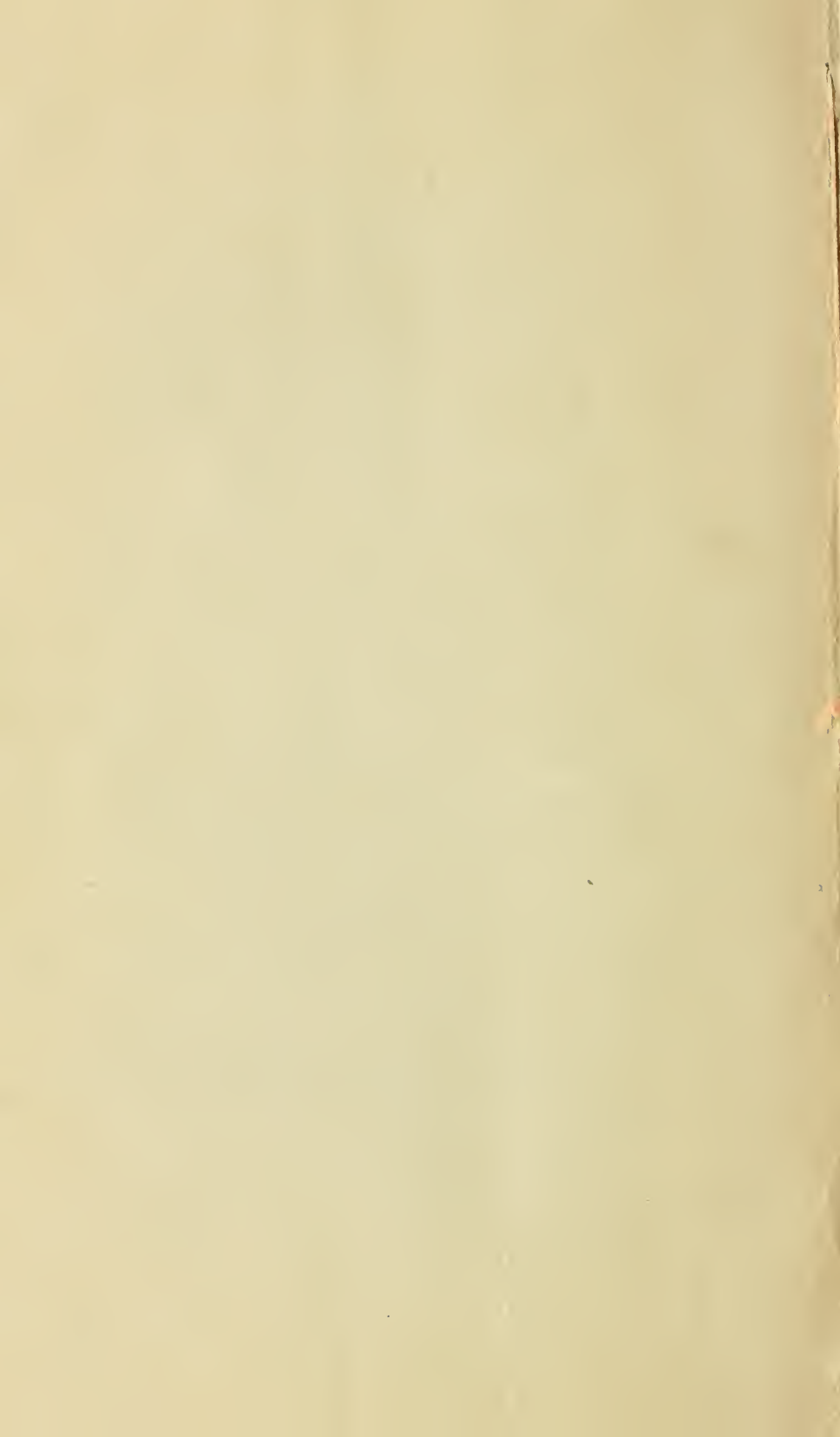
² A far harsher criticism must, however, be passed on the memorandum of Secretary Chase, read at the Cabinet meeting of December 26, 1861, and printed in Warden, *Private Life and Public Letters of Salmon P. Chase*, 393, 394. It was distinctly childish; for Mr. Chase then said of Captain Wilkes' act:—"However excused or even justified by motives, the act of removing [Messrs. Mason and Slidell] as prisoners from the *Trent*, without resort to any judicial cognizance, was in itself indefensible. We could not deny this without denying our history. Were the circumstances reversed, our government would, Mr. Chase thought, accept the explanation, and let England keep her rebels; and he could not divest himself of the belief that, were the case fairly understood, the British government would do likewise. . . . It is gall and wormwood to me. Rather than consent to the liberation of these men, I would sacrifice everything I possess." It is hardly necessary to observe that it has not been the practice of either Great Britain or the United States to yield up political refugees, or "rebels" asking right of asylum, on the demand of any Government claiming their allegiance, to "keep her rebels." The Koszta case is here distinctly in point. Secretary Chase appears when writing this memorandum to have been somewhat oblivious of that precedent.

writer plainly had his eye on the audience; while his ear, so to speak, was in manifest proximity with the ground. Indeed, his vision was directed to so many different quarters, and his ear was intent on such a confusion of rumblings that it is fair matter for surprise that he acquitted himself even as successfully as he did. In the first place, it was necessary for him to persuade a President who had "put his foot down," and whose wishes inclined to a quite different disposition of the matter. In the next place, the reluctant members of a divided Cabinet were to be conciliated and unified. After this, Captain Wilkes, the naval idol of the day, must be justified and supported. Then Congress, with its recent commitments as respects approval, thanks, gold medals, etc., had to be not only pacified, but reconciled to the inevitable; and, finally, an aroused and patriotic public opinion was to be soothed and gently led into a lamb-like acquiescence. The situation in the aspect it then bore, was, it cannot be denied, both complicated and delicate. Accordingly, one is conscious, in reading the Secretary's communication to Lord Lyons of December 26, 1861, of a distinct absence therein of both grasp and elevation. That "bold sweep of the hand" before suggested, is conspicuous for its absence. The English and British precedents were by no means dismissed as antiquated "rubbish"; while, on the contrary, our own earlier and better contentions were silently ignored. In their stead, British principles were adopted as sound and of established authority; and thus the final action of the United States in delivering the, so called, envoys was rested on what the Duke of Argyll presently, and most properly, characterized in his letter to Mr. Adams as "a narrow and technical ground." Captain Wilkes, it was argued, while acting in strict accordance with law and precedent, had failed to seize the *Trent* as lawful prize, and as such, send her into an American port for adjudication. It was a complete abandonment of the traditional American contentions in favor of the arrogant and high-handed policies formerly pursued by Great Britain, but now by her silently dismissed as antiquated and inconvenient — "her cast-off rags"!

It can, therefore, now hardly be denied that there was more than an element of truth in the criticisms passed upon the Secretary's momentous reply to Lord Russell's demand

by Hamilton Fish, in a letter to Charles Sumner, written at the time. Mr. Fish, then in retirement, not impossibly entertained feelings of a nature not altogether friendly towards Mr. Seward, whose colleague he had been in the Senate, and whom later he was to succeed in charge of the Department of State. They were both from New York, and had been contemporaneously active in New York politics. Those also whose attention has been called to the grounds of comparison will, perhaps, hardly be disposed to deny that for natural grasp of the spirit and underlying principles of international law, Hamilton Fish was better endowed than either Seward or Sumner. Fish now wrote: — “In style [the letter] is verbose and egotistical; in argument, flimsy; and in its conception and general scope it is an abandonment of the high position we have occupied as a nation upon a great principle. We are humbled and disgraced, not by the act of the surrender of four of our own citizens, but by the manner in which it has been done, and the absence of a sound principle upon which to rest and justify it. . . . We might and should have turned the affair vastly to our credit and advantage; it has been made the means of our humiliation.”

The ultimate historical verdict must apparently be in accordance with the criticism here contemporaneously expressed. The Seward letter was inadequate to the occasion. A possible move of unsurpassed brilliancy on the international chessboard had, almost unseen, been permitted to escape us.





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