number of passengers who would have been put to great loss and inconvenience, as well as disappointment, from the interruption: it would have caused them in not being able to join the steener from St. Thomas to Europe. I therefore concluded to sucrifice the interest of my officers and crewin the prize, and suffered her to proceed after the detention necessary to effect the transfer of those Commissioners, considering I had obtained the important and I had in view, and which affected the interest of our country and interrupted the action of that of the Confederates."

erates."

I shall consider, first, how these reasons ought to affect the action of this Government; and secondly, how they ought to be expected to affect the action of Great Britain.

I shall consider, first, how these reasons ought to affect the action of this Government; and secondly, how they ought to be expected to affect the action of Great Britain.

The reasons are satisfactory thin Government, so far as Captain Wilkes is concerned. It could not desire that the San Jancinto, her officers and crew, should be exposed to danger and loss by weakening their number to detach a prize crew to go or board the Trent. Still less could it disayow the humane motive of preventing inconveniences, losses, and perhaps disasters, to the several hundred innocent passengers found on board the prize vessel. Nor could this Government perceive any ground for questioning the fact that these reasons, though apparently incongrous, did operate in the mind of Captain Wilkes and determine him to release the Trent. Human actions generally proceed upon mingled, and sometimes conflicting, motives. He measured the sacrifices which this decision would cost. It manifestly, however, did not occur to him that beyond the sacrifice of the private interests (as he calls them) of his officers and crow there might also possibly be a sacrifice even of the chief and public object of his capture—namely, the right of his Government to the custody and disposition of the cuptured persons. This Government cannot censure him for this oversight. It confesses that the whole subject came, unforessen upon the Government, as doubtless it did upon him. Its present convictions on the point in question are the result of deliberate examination and deduction now made, and not of any impressions previously formed!

Nevertheless; the question now is, not whether Captain Wilkes is justified to his Government in what he did, but what is the present view of the Government in what he did, but what is the present view of the Government of a gift or a charity that he sage, and the service of the Trent, if yoluntary, involved, a wave of the reason as included to draw its legal consequence after it. It is of the very nature of a gift or a charity that th

with probable safety to himself overcome, he may properly leave the vessel to go forward; and neither she nor the State she represents can, eyer, atterwards justly object that the captor deprived her of the judicial remedy to which she was entitled.

But the second reason assigned by Capt. Wilkes for releasing the Trent differs from the first. At best, therefore, it must be held that Capt. Wilkes, as he explains himself, acted from combined sentiments of prudence and generosity, and so that the release of the prize vessel was not strictly necessary or involuntary.

secondly. How ought we to expect these explana-tions by Capt. Wilkes of his reasons for leaving the capture incomplete to affect the action of the British Government?

Government?

The observation upon this point which first occurs is, that Capt. Wikes' explanations were not made to the authorities of the captured vessel. If made known to them they might have approved and taken the release, upon the condition of valving a judicial investigation of the whole transaction, or they might have refused to accept the release upon that condition.

have refused to accept the release upon that condition.

But the case is one not with them, but with the British Government. If we claim that Great Britain ought not to insist that a judicial trial lass been jost because we voluntarily released the offending, vessel out of consideration for her innocent passengers, I do not see how she is to be bound to acquiesce in the decision which was thus made by us without necessity on our part, and without knowledge of conditions or consent on her own. The question between Great Britain and ourselves thus stuced would be a question not of right and of law, but of favor to be conceded by her to us in return for favors shown by us to her, of the value of which favors on both sides we ourselves shall be the judge. Of course the United States could have no thought of rising such a question in any case.

States could have no thought of rising such a question in any case.

I trust that I have shown to the satisfaction of the British Government, by a very simple and natural statement of the facts, and analysis of the law applicable to them, that this Government has selther neditated, nor practised, nor approved any deliberate wrong in the transaction to which they have called its attention; and, on the contrary, that what his happened has been simply an inadvertency, consisting in a departure, by the naval officer, free from any wrongful motive, from a rule uncertainly established, and probably by the several parties concerned either imperfectly understood or entirely unknown. For this error the British Government has a right to expect the same reparation that we, as an independent State, should expect from Great Britain or from any other friendly nation in a similar case.

I have not been unaware that, in examining this question, I have fallen into an argument for what

this error the British over themes as a lagace of the post the same reparation that we, as an independent state, should expect from Great British or from any other friendly nation in a similar case.

I have not been unaware that, in examining this question, I have fallen into an argument for what seems to be the British side of it against my own country. But I am relieved from all embarrassment on that subject. I had hardly fallen into that line of argument, when I discovered that I was really defending and maintaining, not an exclusively British interest, but an old, homored, and cherished American cause, not upon British authorities, but upon principles that constitute a large portion of the distinctive policy by which the United States have developed the resources of a continent, and, thus becoming a considerable maritime Power, layer won the respect and confidence of many nations. These principles, were laid down for us in 1804, by James Maldison, when Secretary of State in the Administration of Thomas Jefterson, in instructions given to James Monroe, our Mioister to England. Although the case before him concerned a description of persons different from those who are incidentally the subjects of the present discount of the present discount of the arguments by which he suisuaned himself upon it have been an inspiration to me in preparing this reply.

"Whenever," he says, "property found in a neutral ressel is supposed to be liable on any ground to capture and condemnation, the rule in all cases is, that the question shall not be decided by the captor, but be carried before a legal tribunal, where a regular trial may be had, and where the captor himself is liable to damages for an abuse of his power. 'Can' it be reasonable, them, or just, that a belligerent commander who is thus restricted, and thus responsible in a case of mere property of trivial, anomet, is hould be permitted, without recurring to any, tribunal whatever, to examine the crew of a neutral 'essel, to decide the important question of their pre

ground.

Nor have I been tempted at all by suggestions that. Cases might be found in history, where Great Britain refused to yield to other initions, and even to ourselves, claims like that which is now before us. Those cases occurred when Great Britain, as well as the United States, was the home of generations which, with all their peculiar interests and passions have passed away. She could in no other way so effectually disarvow any such injury as we think she does by assuring now as her own the ground upon which we then stood. It would tell little for our own claims to the character of a just and magnatimous people 4f we

stood. It would tell little for our own cames to the character of a just, and magnatimous people if we should so far consent to be guided by the law of retallation as to life up buried injuries from their grives to oppose against what national consistency and the national conscience compel us to regard as a claim intrinsically right.

national conscience compet us to regards a team in-trinsically right.

Putting behind me all suggestions of this kind, I, prefer to express my satisfaction that, by the adjust-ment of the present case upon principles confessedly. American, and yet, as I trust, mutually satisfactory to both of the antious concerned, a question is finally.

both of the nations concerned, a question is finally and rightly settled between them, which, heretofore extraording not only all forms of penceral discussion, but also the arbitrament of war liself, for more than half a century affeanated the two countries from each other, and perplaced with fears and apprehensions all other nations.

The four persons in question are now held in millitary custody at Fort Warren, in the State of Massachusetts. They will be cheerfully liberated. Your Liberation will be cheerfully liberated.

chuscits. They will be cheerfully liberated. Your Lordship will please indicate a time and place for re-

Cotting them.

I avail myself of this occasion to offer to your Lordship a renewed assurance of my very high consideration.

The Hon. William H. Seward, and the Hon. William H. Seward, &c. &c. &c.

Sir. I have this morning received the note which you did not the honor to address to me yesterday, in answer to Earl Russell's dispatch of the 30th November last, relative to the removals of, Mr. Miscon, Mr. Slidell, Mr. Macfarland, and Mr. Eustis from the British mail packet "frent!"

I will without any loss of time, forward to, her, Majesty's Government are copy of the important communication which you have made to me.

I will also without delay, do myself the honor to confer with you personally on the arrangements to be smade for delivering the four gentlement to me, in order that they may be again placed under the protection of the British flag.

I have the honor to be, with the highest consideration, sir, your most obedient humble servant."

LOBD LYONS TO MH, SEWARD. 3411(cd)

the case of mason and scidelt. " "."

MR. SEWARD TO MR. ADAMS-EXTRACT. DEPARTMENT OF STATE, Washington, November 30, 1861. CHARLES FRANCIS ADAMS, Esq., &c., &c., &c. Sin: Your confidential note of the 15th of November, not marketists he despatch, has been submitted to the President, and I hasten to reply to it in time for the Wednesday's

No Minister ever spoke or acted more wisely in a crisis which excited deeply public solici-tude than you did on the occasion of the Lord tude than you did on the occasion of the Lord Mayor's dinner. We are impossed very favyorably by Lord Palmerston's conversation with you. You spoke the simple fact when you told him that the life of this insurrection is sustained by its hopes of recognition in Great Britain and in France. It would perish in ninety days if those hopes should cease. I have never for a moine of believed that such a recognition could take place without producing immediatly a war between the United States and all the recognising Powers. I have not supposed it possible that the British Government could fail to see this; and at the same time I have sincerely believed the British same time I have sincerely believed the Brit-ish Government must in its though heart; be as averse from such a war as I know this Gov-

fully avoided giving any cause of offence or irritation to Great Britain. But it has seemed to me that the British Government has been inattentive to the currents that seemed to be I infer from Lord Palmerston's remark that the British Government is now awake to the importance of averting possible conflict, and disposed to confer and act with earnestness to that end. If so, we are disposed to meet them in the same spirit, as a nation chiefly of British lineage, sentiments, and sympathics—a civilized and humane nation, a Christian people.

I am sure that this Government has care-

people.
Since that conversation was held Captain Wilkes, in the steamer San Jacinto, has boarded a British colonial steamer and taken from on a British colonial stellmer and taken from her deek two insurgents whe were proceeding to Europe on an orrand of treasen against their own country. This is a new incident, unknown to and unforeseen, at least in its sircumstances, by Lord Palmerston. It is to be met and disposed of by the two Governments, if possible, in the spirit to which I have advanted. have adverted. Lord Lyons has prudently refrained from opening the subject to me, as I presume waiting instructions from home. We have done nothing on the subject to anticipate the discussion; and we have not furnished you with any explanations. We adhere to that course new, because we think it more prudent that the ground taken by the British dovernment should be first made known to us here; and that the discussion, if there must be one, shall be had here. It is proper, however, that you should know one fact in the case without indicating that we attach importance to it, namely, that, in the capture of Messrs. Mason and Slidell on board a British vessel, Captain Wilkes having "acted" without any instructions from the Government, the subject is therefore free from the embarrass-ment which might have resulted if the act had been specially directed by us.
I trust that the British Government will consider the subject in a friendly temper, and it may expect the best disposition on the part of this Government.

Although this is a confidential note, I shall not object to your reading it to Earl Russell and Lord Palmerston if you deem it expedi-I am, sir, your obedient servant,
William H. Saward.

EARL RUSSELL TO LORD LYONS. FOREIGN OFFICE, Nov. 30, 1861. The Lord Lyons, K. C. B., &c., &c., &c. My Lord: Intelligence of a very grave nature has reached her Majesty's Government. This intelligence was conveyed officially to the knowledge of the Admiraly by German-der Williams, agent for mails on board the

ontract steamer Trent.

It appears from the letter of Commander Williams, dated "Royal Mail Contract Packet Trent, at sea, November 9th," that the Trent left Havana on the 7th instant, with her Majesty's mails for England, having on board numerous passengers. Commander Williams states that shortly after noon on the Sth, a steamer having the appearance of a Man-of-war, and not showing colors, was observed ahead. On nearing her at 1:15 p. m., she fired a round shot from her pivot gu across the bows of the Trent, and showed American colors. While the Trent was ap American colors. While the Trent was approaching her slowly the American vessel discharged a shell across the bows of the Trent, exploding half a cable's length ahead of her. The Trent then stopped, and an officer, with a large armed guard of marines, boarded her. The officer demanded a list of the passengers; and, compliance with this demand being refused, the officer said he had orders to arrest Messrs. Mason. Slidell. McFarlane and Eustis, and that he had sure information of their being passengers in the Trent. While some parley was going on upon this matter, Mr. Slidell stepped forward and told the American officer that the four persons he had named were then standing before him. The commander of the Trent and Commander Williams mander of the Trent and Commender Williams protested against the act of taking by force out of the Trent these four passengers, then under the protection of the British flag. But the "San Jacinto" was at that time only two hundred yards from the "Trent," her ships's company at quarters, flow ports open, and ton protect out of the protection of the prot the question, and the four gentlemen before named were forcibly taken out of the ship. A further demand was made that the comand-or of the Trent should proceed on board the

San Jacinto, but he said he would not go unless forcibly compelled likewise, and this demand was not insisted upon.

It thus appears that certain individuals have been forcibly taken from on board a British vessel, the ship of a neutral Power, while such vessel was pursuing a lawful and while such vessel was pursuing a lawful and innocent veyage—an act of violence which was an affront to the British flag and a viola-tion of international law. Her Majesty's Government, bearing in mind Her Majesty's Government, nearing in hind the friendly relations which have long subsisted between Great Britain and the United States, are willing to Believe that the United States naval efficer whe committed the agression was not acting in compliance with any authority from his allegament, or that if he conceived himself to be so authorized he conceived himself to be so authorized he conceived himself to be so authorized. greatly misunderstood the instructions which he had received. For the Government of the United States must be fully aware that the British Government could not allow such an affront to the national henor to pass without full reparation, and her Majesty's Government are unwilling to believe that it could be the deliberate intention of the Government of the United States unnecessarily to force into discussion, between the two Governments, a question of so grave a character, and with regard to which the whole British nation

would be sure to entertain such unanimity of feeling.
Her Majesty's Government, therefore, trust that when this matter shall have been brought under the consideration of the Government of the United States that Government will, of its own accord, offer to the British Government own accord, oner to the British appertunent, such redress as alone could satisfy the British nation, namely, the liberation of the four gentlemen and their delivery to your lordship, in order that they may again be placed ander British protection, and a suitable apology for he aggression which has been committed.

Should these terms not be offered by Mr. Saward you will propose them to him. Seward you will propose them to him.

You are at liberty to read this dispatch to
the Secretary of State, and, if he shall desire it, you will give him a copy of it. Rossecu:

MB. SEWARD TO LORD LYONS.

DEPARTMENT OF STATE, Washington, December 26, 1861. The Right Honorable Lord Lyons, &c., &c., &c. My LORD: Earl Russell's dispatches of November the 30th, a copy of which you have left with me at my request, is of the following effect, namely: That a letter of Commander Williams, dated

That a letter of Commander Williams, dated Royal Mall Contract Packet-boat Trent, at son, November 2th, states that that vessel left Havana on the 7th of November, with her Majesty's mails for England, having an board numerous passengers. Shortly after noon, on the 8th of November, the United States was steamer San Jacinto, Captain Wilkes, not showing colors, was observed shoad. That steamer, on being neared by the Trent, at one o'clock fifteen minutes in the afternoon, fired o'clock fifteen minutes in the atternoon, frod a round shot from a pivot gun across her bows, and showed American colors. While the Trent was approaching slowly towards the San Jacinto, she'discharged stand! across the Trent's bows, which exploded half a cable's length before her. The Trent then stopped, and an officer with a large armed guard of marines boarded her. The officer said he had orders to arrest Messrs. Mason, Slidell, McFarlan and Enstis, and had sure information that they were Eastis, and had sure information that they were passengers in the Trent. While some parley was going on upon this matter, Mr. Slidell stepped forward and said to the American officer that the four persons he had named were standing before him. The Commandary of the Trent and Commander Williams protested against the act of taking those four passengers out of the Trent, they then being under the protection of the British flug. Bu the San Jacinto was at this time only two hundred yards distant, her ship's company at quarters, her ports open and tompions out, and so resistance was out of the question. The four persens before named were then forcibly taken out of the ship. A further demand was made that the Commander of the Trent should proceed out board the San Jacineto, but he said he would not go unless forcibly compelled likewise, and this demand was not insisted upon.

Upon this statement Earl Russell remarks that it thus annears that certain individuals hundred vards distant, her ship's company at

that it thus appears that certain individuals have been foreibly taken from on board a British vessel, the ship of a neutral power, while that vessel was pursuing a lawful and innocent voyage, an act of violence which was an affront to the British flag and a violation of international law.

dozenment, bearing in mind the friendly re-vial

Great Britain and the United States, are willing to believe that the naval officer who coming to believe that the naval officer who committed this aggression was not acting in compliance with any nuthority, from his Government, or that, if he conceived himself to be so authorized, he greatly misunderstood the instructions which he had received.

Earl Russell argues that the United States must be fully aware that the British Government could not allow such as affects the second of ment could not allow such an affront to the national honor to pass without full reparation, and they are willing to believe that it could not be the deliberate intention of the Government of the United States unnecessarily to force into discussion between the two Governments a question of sucreys a character and ments a question of so grave a character, and with regard to which the whole British nation would be sure to entertain such unanimity of

feeling.

Earl Russell, resting upon the statement and the argument which I have thus recited, closes with saying that her Majesty's Government trust that when this matter shall have been brought under the consideration of the Government of the United States, it will, of its own accord, offer to the British Government such redress as alone could satisfy the British nation, namely, the liberation of the four prisoners taken from the Trent, and their delivery to your lordship, in order that they may again be placed under British protection, and a suitable suchors for the convenience. and a suitable apology for the aggression, which has been committed. Earl. Russell finally instructs you to propose those terms to me, if I should not first offer them on the part of the Government.

This dispatch has been submitted to the

President The British Government has rightly con-The British Government has rightly conjectured, what it is now my duty to state, that Capt. Wilkes, in conceiving and executing the proceeding in question, acted upon his own suggestions of duty, without any direction or instruction, or even foreknowledge of it on the part of this Government. No directions had been given to him, or any other naval officer, to arrest the four persons named, or any of them, on the Trent, or on any other British vessel, or on any other neutral vessel, at the place where it occurred or elsewhere. at the place where it occurred, or elsewhere. The British Government will justly infer from these facts that the United States not only have had no purpose, but even no thought, of forcing into discussion the question which has arisen, or any other which could affect in any way the sensibilities of the British nation.

It is true that a round shot was fired by the San Jacinto, from her pivot gun, when the Trent was distantly approaching. But, as the facts have been reported to this Govern-ment, the shot was nevertheless intentionally fired in a direction so obviously divergent from the course of the Trent as to be quite as harmless as a blank shot, while it should be

regarded as a signal.
So also we learn that the Trent was not So also we learn that the Trent was not approaching the San Jacinto slowly when the shell was fired across her bows, but, on the contrary, the Trent was, or seemed to be, moving under a full head of steam, as if with a purpose to pass the San Jacinto.

We are informed also that the boarding officer (Lieut. Fairfax) did not board the Trent with a large armed guard, but he left his marines in his boats when he entered the Trent. He stated his instructions from Capt. Wilkos to search for the four persons named. Wilkes to search for the four persons named, in a respectful and courteous though decided manner, and he asked the aptain of the Trent to show his passenger list, which was refused. The lieutenant, as we are informed, did not employ absolute force in transferring the pas-sengers, but he used just so much as was necessary to satisfy the parties concerned that refusal or resistance would be unavailing. So, also, we are informed that the Cantain so, also, we are informed that the Captain of the Trent was not at any time or in any way required to go on board the San Jacinto.

These modifications of the case as presented by Commander Williams are based upon our

official reports. I have now to remind your lordship of some facts which doubtlessly were omitted by Earl Russell, with the very proper and be-coming motive of allowing them to be brought into the case, on the part of the United States, in the way most satisfactory to this Govern-ment. These facts are, that at the time the transaction occurred an insurrection was existing in the United States which this Government was engaged in suppressing by the employment of land and naval forces; that in regard to this domestic strife the United States considered Great Britain as a friendly Power, while she had assumed for herself the attitude of a neutral; and that Spain was considered in the same light, and had assumed the same attitude as Great Britain It had been settled by correspondence that the United States and Great Britain mutually recognised as applicable to this local strife these two articles of the declaration made by the Congress of Paris in 1856, namely, that the neutral or friendly flag should cover enemy's goods not contraband of war, and that tral goods not contraband of war are not liable to capture under an enemy's flag. These exceptions of contraband from favo negative acceptance by the parties of the rule hitherto every where recognized as a part of the law of nations, that whatever is contra-

band is liable to capture and confiscation in James M. Mason and E. J. McFarland are citizens of the United States and residents of Virginia. John Slidell and George Eastis are citizens of the United States and residents of Louisiana. It was well known at Havans when these parties embarked in the Trent, that James M. Mason was proceeding to England in the affected character of a Minister Plenipotentiary to the Court of St. James, under a pretended commission from Jefferson Davis, who had assumed to be President of Davis, who had assumed to be President of the insurrectionary party in the United States, and E. J. McFarland was going with him in a like unreal character of Secretary of Legation to the pretended mission. John Slidell, in similar circumstances, was going to Paris as a pretended Minister to the Emperor of the French, and George Eustis was the chosen Secretary of Legation for that simulated mission. The fact that these persons had assumed such characters has been since avoided by the same Jefferson Davis in a pretended message to an unlawful and insurrectionary Congress. It was as we think, preceded message to an unlawful and insur-rectionary Congress. It was, as we think, rightly presumed that these Ministers bore pretended credentials and instructions, and sich papers are in the law known as dis-patches. We are informed by our Consul at Paris that these dispatches, having escaped the search of the Trent, were actually con-veyed and delivered to emissaries of the in-surrection in England. Although it is not essential, yet it is proper to state, as I do also upon information and belief, that the owner and agent, and 'all the officers of the owner and agent, and 'all the officers of the Trent, including the Commander Williams, had knowledge of the assumed characters and

purposes of the persons before named when they embarked on that vessel. Your lordship will now perceive that the case before, us, instead of presenting, a merely flagrant act of violence on the part of Captain Wilkes, as might well be inferred from the incomplete statement of it that went up to the British Government, was undertaken as a simple, legal and customary belligerent proceeding by Captain Wilkes to arrest and capture a neutral vessel engaged in carrying con-traband of war for the use and benefit of the

insurgents. insurgents.

The question before us is, whether this proceeding was authorized by and conducted accoeding was authorized by and conducted acoorling to the law of nations. It involves
the following inquiries:
1st. Were the persons named and their supposed dispatches contraband of war?
1 2d. Might Captain Wilkes lawfully stop
and search the Trent for those contraband persons and dispatches? sons and dispatches?

3d. Did he exercise that right in a lawful

and proper manner?
4th. Having found the contraband persons on board and in presumed possession of the contraband dispatches, had he a right to capture the persons?

5th. Did he exercise that right of capture in the manner allowed and recognized by the law of nations? g.

If all these inquiries shall be resolved in the affirmative the British Government will

the Saffirmative the British Government will have no claim for reparation.

I address myself to the first inquiry, namely, were the four persons mentioned, and their supposed dispatches, controband?

Maritime law so generally deals, as its professors say, in rem, that is, with property, and so seldom with persons, that it seems a straining of the term contraband to apply it to them. But persons, as well as property, may become contraband, since the word means broadly, "contrary to proclamation, prohibited, illegal, unlawful." All writers and judges pronounce naval or military persons in the service of the enemy contraband. Vattel says war allows us to cut off from an enemy all his resources, and t

hinder him from sending ministers to solicit assistance. And Sir William Scott says you may stop the ambassador of your enemy on his passage. Despatches are not less clearly contraband, and the bearers or couriers who undertake to carry them fall under the same A subtlety might be raised whether pretended ministers of an usurping Power, not recognised as legil by either the belligerent or the neutral, could be held to be contraband. the neutral, could be held to be contraband. But it would disappear on being subjected to what is the true test in all cases—namely, the spirits of the law Sir. William Sout, speaking of civil magistrates who were arrested and dotained as contraband, says:

"It appears to man our principle to be but; reasonable that when it is of sufficient importance to the enemy that such persons shall be sent out on the public service at the public expense, it should afford equal ground of forfeiture against the vessel that may be let

forfeiture against the vessel that may be let out for a purpose so intimately connected with the hostile operations."

I trust that I have shown that the four persons who were taken from the Trent by Captain Wilkes, and their despatches, were contraband of war. The second inquiry is, whether Capt: Wilkes had a right, by the law of nations, to detain

nad a right, by the law of matters, to death and search the Trent? The Trent, though she darried mails, was a contract or merchant vessel—a common car-rie for hire.—Maritime law knows only three classes of twestels—vessels for war, revenue 3. olasses, of svessels vessels of war, revenue a vessels, and merchant vessels. The Trent falls within the latter class. Whatever disputes have existed concerning a right of visitation or search in time of peace, none, it is supposed has existed in modern times about the right of the bout of the right of the balligerent in time of war to capture contraband in neutral and even

friendly merchant vessels, and of the right of visitation and search, in order to determine whether they are neutral, and are documented as such according to the law of nations.

I assume, in the present case, what, as I read British authorities, is regarded by Great British nerself as true maritime law; that the circumstance that the Trent was proceeding from a neutral port to another neutral port does not modify the right of the belligerent captor. captor.

The third question is, whether Capt. Wilkes The third question is, whether Cape. Where oxercised the right of search in a lawful and proper manner?

If any doubt hung over this point, as the case was presented in the statement of it adopted by the British Government, I think

it must have already passed away before the modifications of that statement which I have already submitted.

I proceed to the fourth inquiry, namely:
Having found the suspected contraband of
war on board the Trent, had Capt. Wilkes a war on board the Trent, had Capt. Wilkes a right to capture the same?

Such a capture is the chief if not the only recognised object of the permitted visitation and search. The principle of the law is, that the belligerent exposed to danger may prevent the contraband persons or things from applying themselves or being applied to the hostile uses or purposes designed. The law is so very liberal in this respect that whon contraband is found on board a neutral vessel, not only is the contraband forfeited, but the vessel, which is the vehicle of its passage or transportation, is the vehicle of its passage or transportation, being tainted, also becomes contraband, and is subjected to capture and confiscation.

subjected to capture and confiscation.
Only the fifth question remains, namely:
Did Captain Wilkes exercise the right of capturing the contraband in conformity with the law of nations?

It is just here that the difficulties of the It is just here that the difficulties of the case begin. What is the manner which the law of nations prescribes for disposing of the contraband when you have found and seized it on board of the neutral vessel? The snawer would be easily found if the question were what you shall do with the contraband vessel. You must take and send her into a convenient port, and subject her to a judicial prosecution there in admiralty, which will try and decide the questions of belligarency, neutrality, contraband and capture. So, again, you would promptly find the same answer if the question were. What is the manner of proceeding prescribed by the law of nations in regard to the contraband if it be property or things of material or pecuniary value?

But the question here concerns the mode of procedure in regard, not to the vessel that was carrying the contraband, nor yet to contra-band things which worked the forfeiture of the vessel, but to contraband persons.

The books of law are dumb. Yet the question is as important as it is difficult. First, the belligerent captor has a right to prevent the contrabund officer, soldier, sailor, minis-ter, messenger, or courier from proceeding in his unlawful voyage and reaching the destined scene of his injurious service. But, on the other hand, the person captured may be inne-cent—that is, he may not be contraband. He, cent—that is, he may not be contraband. He, therefore, has a right to a fair trial of the accusation against him. The neutral State that has taken him under its flag, is beund to protect him if he is not contraband, and is therefore entitled to be satisfied upon that important question. The faith of that State is pledged to his safety, if innocent, as its justice is pledged to his surrender if he is really contraband. Here are conflicting claims, involving personal liberty, life, honor, and duty. Here are conflicting national claims, involving welfare, safety, honor, and empire. They require a tribunal and a trial. The captors and the captured are equals; the neutral and the belligerent States are equals.

While the law authorities were found silent,

belligerent States are equals.
While the law authorities were found silent, it was suggested at an early day by this Government that you should take the captured persons into a convenient port and institute judicial proceedings there to try the controversy. But only courts of admiralty have jurisdiction in maritime cases, and these courts have formulas to try only claims to contraduct of the polycometer of the polycometers. have formulas to try only claims to contrabance chattles, but none to try claims concerning contraband persons. The courts can entertain no proceedings and render no judgment in favor of or against the alleged contraband

It was replied all this is true; but you can reach in those courts a decision which will have the moral weight of a judicial one by a circuitous proceeding. Convey the suspected men, together with the suspected vessel, into port, and try there the question whether the vessel is contraband. You can prove it to be so by proving the suspected men to be contraband, and the court must then determine the vessel to be contraband. If the men are not contraband the vessel will escape condemnation. Still there is no judgment for or against the captured persons. But it was assumed that there would result from the determination of the court concerning the vessel a legal certainty concerning the character of the

men.

This course of proceeding seemed open to many objections. It elevates the incidental inferior private interest into the proper place of the main paramount public one, and possibly it may make the fortunes, the safety, or the existence of a nation depend on the acthe existence of a nation depend on the accidents of a merely personal and pecuniary litigation. Moreover, when the judgment of the prize court upon the lawfulness of the capture of thevessel is rendered, it really concludes nothing, and binds neither the belligerent State nor the neutral upon the great question to be made of the captured contraband persons. That question is still to be really determined, if at all, by diplomatic arrangement or by war

One may well express his surprise when told that the law of nations has furnished no more reasonable practical and perfect mode than this of determining questions of such grave import between sovereign Powers. The regret we may feel on the occasion is never-theless modified by the reflection that the difficulty is not altogether anomalous. Similar and equal deficiencies, are found in every system of municipal law, especially in the system which exists in the greater portions of Great Britain and the United States. The title to personal property can hardly ever be resolved by a court without resorting to the fiction that the claimant has lost and the possessor has found it, and the title to real estate is disputed by real litigants under the names of imaginary persons. It must be confessed, however, that while all aggreed nations demand, and all impartial ones concede, the need of some form in judicial process in determining the characters of contrab ad persons, no other form than the illogical and circuitous one thus described exists, nor has any other yet been suggested. Practically, therefore, the choice is between that judicial remedy or no judicial remedy whatever.

If there be no judicial remedy, the result is that the question must be determined by the captor himself, on the deck of the prize vessel. Very grave objections arise against such a course. The captor is armed, the neutral a course. The captor is armed, the neutral is unarmed. The captor is interested, prejudiced, and perhaps violent; the neutral, if truly neutral, is disinterested, subdued, and helpless. The tribunal is irresponsible, while its judgment is churied into instant executions. The captured party is compelled to abbuilt, though bound by no legal, moral, or treaty obligation to acquiesce. Reparation is distant and problematical, and depends at last on the justice, magnanimity, or weakness. of on the justice, magnanimity, or weakness of the State in whose behalf and by whose the State in whose behalf and by whose authority the capture was made. Out of these disputes reprisals and wars necessarily arise, and these are so frequent and destructive that it may well be doubted whether this form of remedy is not a greater social evil than all that could follow if the belligerent right of search wore universally renounced and abolished forever. But carry the case one step farther. What if the State that has made the capture unreasonably refuse to hear the complaint of the neutral or to redress it? In complaint of the neutral or to redress it ? In that case, the very act of capture would be an act of war—of war begun without notice, and possibly entirely without proveestion. that all unprejudiced minds will agree that imperfect as the existing judicial remedy may be supposed to be, it would be, as a general practice, better to follow it than to adopt the summary one of leaving the decision with the captor, and relying upon diplomatic debates to review his decision. Practically, it is a question of choice between law, with its imperfections and clays; and war, with its will perfections and delays, and war, with its evils and desolations. Nor is it ever to be forgotten that neutrality, honestly and justly preserved, is always, the harbinger of peace, and therefore is the common interest of nations,

which is only saying that it is the interest of humanity itself. At the same time it is not to be denied that it may sometimes happen that the judicial remedy will become impossible, as by the ship-wreck of the prize vessel, or other circumwreck of the prize vessel, or other circumstances which excuse the captor from sending or taking her into port for confiscation. In such a case the right of the captor to the ensitedy of the captured persons and to dispose of them, if they are really contraband, so as to defeat their unlawful purposes, cannot reasonably be denied. What rule shall be applied in such a case 2 Clearly the contrabations. policid in Such a case? Clearly, the captor ought to be required to show that the failure of the judicial remedy results from circumstances beyond his control, and without his fault. Otherwise, he would be allowed to derrive advantage from a wrongful act of his

own.

In the present case, Captain Wilkes, after capturing the contraband persons and making prize of the Trent is what seems to as a periectly lawful manner, instead of sending her into port, released hor from the capture, and permitted her to preced with her whole cargo upon her voyage. He thus effectually freented the judicial examination which might otherwise have occurred 764 whole cargo upon her voyage. He thus effectually firevented the judicial examination which might otherwise have occurred T().

If, now, the capture of the contraband persons and the capture of the contraband vessel are to be regarded, not as two separable or distinct transactions under the law of nations, but as one transaction, one capture only, then it follows that the capture in this case was left unimished, or was abandoned. Whether the United States have a right to retain the chief public benefits of it, namely, the custody of the captured persons on proving them to be contraband, will depend upon the preliminary question whether the leaving of the transaction unfinished was necessary or whether it was unnecessary, and therefore voluntary. If it was necessary, Great Britain, as we suppose, must of course, walve, the defect and the consequent failure of the judicial remedy. On the other hand, it is not seen how the United States can insist upon her waiver of that judicial remedy, if the defect of, the capture resulted from an act of Captain Wilkes, which would be a fault on their own side.

Oaptain Wilkes has presented to this Government this reasons for releasing the Trent. "I, forebore to a select her," he says, "in consequence of my being so the would character the select her," he says, "in consequence of my being so the would character the select her," he says, "in consequence of my being so the would character persons, there being a large

At Evergreen Hamlet, on the 19th Inst., at the house of the ibrite's father, by Rev. A. W. M. Ohnes D.D. Lazzille. ALEXANDER, Esq., of Chicago, AU., to Miss Janninja., eldes daughter of Rev. Janes J. Marks, D.D. Ta Rimersburg, December 24th, 1861; by Rev. John H. Sherrard. Mr. J. R. Hull to Miss Mary Morrimen, all of llation County, Ph. Clarica County, Pa.

On Tuesday, December 17th, an the residence of the bride's statist; by Rev. W. Prideaux, D. J. J. CLARKE, of Mechanicsburg, Cumberland County, to Miss Esnak M. Statist, of Scheitsburg, Bedford County, to Mechan, Mr. Dayld L. Marshaley of Wayne Township, Armstrong County, to Miss Maria Jane Marshall of Belknap, Pa.

Obitnary of word on

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TANKOUNCEMENTS. GRATIS: ADDITIONAL REMARKS. FIVE JENYS A LINE, NINE WORDS DEING A LINE ] DIED In Union congregation, Armstrong County, Pa., December 5th, in the faith of the Gospel, Mrs. ROSANNA HINDMAN, aged 59 years. DLED—In Pittsburgh; on the morning of December 25th; 1861, Mrs. NANCY, wife of Alexander Wilson, in the 71st ear of her age; a member of the First Presbyterian church: DIED-At Camp Nevin, Hardin County, Ky. December oth of typloid fever, ROBERT BRUGE, son of Rev. John and Mary Stark, a member of Co. I. 78th Regt P. V., the youngest of four sois in the United States service, and a citizen of Armstrong County, Pa., aged 20 years.

DEED—October 31st, near, Edinburgh, O., of diphthuris DEZIA, child of Andrew and Dezia Moore, aged b years an Why should I vex my heart, or fast? No more she'll visit me; My soul shall mount to her at last, And there my child I ill see.

DIED—At Summersville, Nicholas, County, Va., greatly lamented and beloved, JAMES WITTER, son of Thomas Wand Mary Nicholson, of New Geneva, Pa. At his death, the deceased was an honored member o Capt. Gilmore's Volunteer Cavalry Company-Gen. Ros crans division; also a member of the Presbyterian church of George's Creek. He was a true triend, an exemplary Christian, a patriotic citizen, and a brave soldier.

A.V.

DIED-December Ast, of diphtheria, in the 12th year of seringe, FIDELIA COAN, daughter of Merriet and Maria In this sudden stroke of Divine Providence, many heart

have been made truly sad—not from any loss to the sweet and precious flower so early taken to bloom more fair in the Paradisc of God, but for want of that Joy and delight which her presence was ever want to produce. This youth was a favorite among all her acquaintan he sunlight of her parental home, and but a short time b fore she was taken from us; a bright ornament of Oak Grov

eminary. But God claimed her, and we must say, His will e done. DEED—At Fortross Monroc, Va., on the 8th of December, OHN, son of Robert C. and Marcaret Martin Indiana Co., Pa., member of Co. F., 55th Regt P. V., in His 23d year He died in the hospital, of measles contracted in camp. He was a useful member of the Church, and had been dili-gently and successfully prosecuting professional studies, with the prospect of honorably filling some important par in life. He died among strangers, but the eye and the hand

his heavenly Father were near. He well knew that he

might full in the ranks, but having entered the service, he was enthusiastic in his dovotion to it. His remains, being rought home, were deposited with those of his friends "Quiescat in pace"

DIED—By drowning, at Dam No. 3, in Armstrong County, Pn., on the morning of September 28th, 1861, THOMAS BENTON, aged 18 years, 11 months, and 26 days; a number

"He went not dewn in the dark waters alone." Father, mother, sisters dear,
Oh! let us weep no more;
Our darling brother is not dead, But "only gone before."

Full well we know we soon shall meet Upon that silent shore, is between the Where partings and are never felt, in the And death—it comes no more. C. & M. DIED In Cross Creek Township, Washington County n the 65th year of his age. The deceased was a ron of Gen. Thomas Patterson, wh

for many years represe ted Washington County in the Con-gress of the United States. Trained by a father who was proverbial for his heavily, Mr. Patterson was characterized y strict integrity in all his business transactions. His word vas as good as his bond. For nearly thirty-four years he was a member of the Presbyterian church of Cross Creek, Pa. And as Providence had put him in trust of ample means, he gave a liberal support to all the institutions of the dospel, especially to those schemes of benevolence in which the Presbyterian Church is engaged. After the deaths o Jesse H. Dungan and William Vance, Esqs., no man in this mmunity patronized the causes of Domestic Missions and African Colonization more generously than he. The disor-ter which caused his death was dropsy. During many pain-ful and tingering wonths he was sustained and cheered by the kopes of the Gespel. And when he passed through the lark valley of the shadow of death, the rod and staff of the very great concourse of sorrowing relatives and neighbors testified their respect for his memory by following his dust to the house appointed for all living. One who knew him ong and well, laye this sprig of myrtle on his tomb.

DROSPECTUS , that worth . thus THE NEW-YORK LEDGER.

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