

DIARY FOR JANUARY.

1. Wednesday ... Commission Taxes to be computed from this day.
 5. SUNDAY ... 2nd Sunday after Christmas.
 6. Monday ... Epiphany County Court Term begins Surrogate Court Term begins. Hear and Devises sittings commence. Municipal Elections.
 8. Wednesday ... Election of School Trustees.
 9. Thursday ... York and Peel Winter Assizes commence.
 11. Saturday ... County Court and Surrogate Court Term ends.
 12. SUNDAY ... 1st Sunday after Epiphany.
 13. Monday ... Recorder's Court sits Election of Police Trustees in Police Villages.
 15. Wednesday ... Treasurer or Chairmen of Municipalities to make returns to Board of Aldermen.
 16. Saturday ... Articles, &c. to be left with Secretary of Law Society.
 19. SUNDAY ... 2nd Sunday after Epiphany.
 20. Monday ... Members of Municipal Councils (except Counties) and Trustees of Police Villages to hold their first meeting.
 21. Tuesday ... Hear and Devises sittings end. Last Day for Notice Chancery Examinations Toronto.
 26. SUNDAY ... 3rd Sunday after Epiphany.
 28. Tuesday ... Members of County Council to hold their first meeting.
 31. Friday ... Last day for Cities and Counties to make returns to Government Day for Grammar School Trustees to retire.

IMPORTANT BUSINESS NOTICE.

Persons indebted to the Proprietors of this Journal are requested to remember that all our past accounts have been placed in the hands of Messrs. Patton & Ardoin, Attorneys, Barristers, for collection; and that only a prompt remittance to them will save costs.

It is with great reluctance that the Proprietors have adopted this course; but they have been compelled to do so in order to enable them to meet their current expenses which are very heavy.

Now that the usefulness of the Journal is so generally admitted it would not be unreasonable to expect that the Proprietors and Officers of the Courts would accord it a liberal support, instead of allowing themselves to be sued for their subscriptions.

The Upper Canada Law Journal.

JANUARY, 1862.

THE MASON AND SLIDELL CASE.

Questions of right and wrong are of daily occurrence between individuals, and attract little attention beyond the circle of those immediately interested. But where the question raised is one between nations, not only the subjects of these nations, but often the whole civilized world, is interested in the proper solution of the question.

Just such a question was lately pending between Great Britain and the United States of America.

A British mail steamer called the Trent sails from Havanna to England. She has on board, among other passengers, two gentlemen called Mason and Slidell. She is intercepted on the sea by a United States vessel of war called the San Jacinto. She is boarded by Captain Wilkes, the commander of the San Jacinto, who takes into custody Messrs. Mason and Slidell and removes them to his own vessel. The Trent is then allowed to proceed. It is believed that these two gentlemen were accredited agents of the government of the Confederate States, and it is supposed they carried despatches from the government of the Confederate States, but the contents of the despatches are unknown.

The question was whether the conduct of Captain Wilkes was justified by international law or the law of nations.

The law of nations is what lawyers term *lex non scripta* or unwritten law. It is not to be found written in any code or set of statutes. It in this respect resembles the common law of England. Its source is the law of reason. Traces of it may be found in the writings of eminent authors of acknowledged international authority. Where these are silent, reference is made to the conduct and practice of nations. Where this fails, reference is made to the principles of natural justice which are common to all mankind, of whatever language, colour or creed.

No court exists for the administration of this law. No tribunal has jurisdiction, unless by consent, to adjudicate upon the jarring interests of contending powers. The decision of such questions is too often left to the god of battles.

War is a great evil. It usually arises between two nations. It sometimes extends to several nations: but at all times there are nations which take no part or let in the dispute. These are neutrals. The belligerents have their rights and neutrals have their rights. The rights of the one are the obligations of the other.

It is the obligation of a neutral power in all things to show strict impartiality to the belligerent powers. If she actively favor one of the parties to the prejudice of the other, she is no longer a neutral.

But commerce between nations is not to be stopped because two nations are at war. Commerce no doubt may suffer, but is to suffer as little as possible consistent with the rights of the belligerents.

It is the right of a belligerent nation to deprive her opponent of every thing which may enable her to resist or injure. It is her right to intercept every thing relating to war, whether carried by neutral vessels or not.

In order that commerce may subsist in as great a degree of freedom as consistent with the laws of war, there are certain rules to be observed on which most civilized powers appear to be agreed.

One rule is that a belligerent may, on the high seas, intercept goods contraband of war, such as arms, ammunition, timber for shipbuilding, naval stores, and even provisions under certain circumstances. (Vattel, 337; Chitty's Law of Nations, 119, 128.). This is a right fully acknowledged by Great Britain. (*Darker v. Blakes*, 9 East. 283.)

The right to intercept necessarily involves the right to search. (Vattel, 339.) A neutral ship refusing to be searched, would from that proceeding alone be held condemned as a lawful prize. (Vattel, 339.)

The visitation must be limited to an inquiry with a view to the seizure of such contraband goods as may be on board, and to ascertain the vessel's neutrality. (Wheaton, 591, note a.)