

flag of England. Doubtless it will not be pretended that they could be considered as contraband of war. That which constitutes contraband of war is not yet, it is true, exactly settled; the limitations are not absolutely the same for all the powers; but in what relates to persons, the special stipulations which are found in the treaties concerning military people define plainly the character of those who only can be seized upon by belligerents; but there is no need to demonstrate that Messrs. Mason and Slidell could not be assimilated to persons in that category. There remains, therefore, to invoke, in explanation of their capture, only the pretext that they were the bearers of official despatches from the enemy; but this is the moment to recall a circumstance which governs all this affair, and which renders the conduct of the American cruiser unjustifiable.

The Trent was not destined to a point belonging to one of the belligerents. She was carrying to a neutral country her cargo and her passengers; and, moreover, it was in a neutral port that they were taken. If it were admissible that, under such conditions, the neutral flag does not completely cover the persons and merchandise it carries, its immunity would be nothing more than an idle word; at any moment the commerce and the navigation of third powers would have to suffer from their innocent and even their indirect relations with the one or the other of the belligerents. These last would no longer find themselves as having only the right to exact from the neutral entire impartiality, and to interdict all intermeddling on his part in acts of hostility. They would impose on his freedom of commerce and navigation restrictions which modern international law has refused to admit as legitimate; and we should, in a word, fall back upon vexatious practices, against which, in other epochs, no power has more earnestly protested than the United States.

If the cabinet of Washington would only look on the two persons arrested as rebels, whom it is always lawful to seize, the question, to place it on other ground, could not be solved, however, in a sense in favor of the commander of the San Jacinto. There would be, in such case, misapprehension of the principle which makes a vessel a portion of the territory of the nation whose flag it bears, and violation of that immunity which prohibits a foreign sovereign, by consequence, from the exercise of his jurisdiction. It certainly is not necessary to recall to mind with what energy, under every circumstance, the government of the United States has maintained this immunity, and the right of asylum which is the consequence of it.

Not wishing to enter upon a more deep discussion of the questions raised by the capture of Messrs. Mason and Slidell, I have said enough, I think, to settle the point that the cabinet of Washington could not, without striking a blow at the principles which all neutral nations are alike interested in holding in respect, nor without taking the attitude of contradiction of its own course up to this time, give its approbation to the proceedings of the commander of the San Jacinto. In this state of things it evidently should not, according to our views, hesitate about the determination to be taken.

Lord Lyons is already instructed to present the demand for satisfaction which the English cabinet is under the necessity of reducing to form, and which consists in the immediate release of the persons taken from on board the Trent, and in sending explanations which may take from this act its offensive character toward the British flag. The federal government will be inspired by a just and exalted feeling in deferring to these requests. One would search in vain to what end, for what interest, it would hazard to provoke, by a different attitude, a rupture with Great Britain.

For ourselves, we should see in that fact a deplorable complication, in every respect, of the difficulties with which the cabinet of Washington has already to struggle, and a precedent of a nature seriously to disquiet all the powers which continue outside of the existing contest. We believe that we give evidence of loyal friendship for the cabinet of Washington by not permitting it to remain