

"But the broad, main, and wide difference between these cases and mine is, that those men were not given up, except upon a requisition from the State whose laws they were alleged to have offended, application was made in a decorous manner, in such a manner as, in acknowledging the jurisdiction of the State in whose territory the offenders were found, *requested that as a favour, which could not be claimed as a right*; whilst, in my case, I was fraudulently, and by force, taken in the heart, as it were, of the American territory, and carried off, in the darkness of night, by a party of marauders from Canada, without any application to any government any acknowledgement of any jurisdiction, or any consideration of what was due from one nation to the other.

"In what has been published on this subject, reference has been made to the twenty seventh article of the treaty of 1795, between America and Great Britain, but without reflecting that, by that treaty, that article, amongst others, was, by the 28th article, limited in its duration to twelve years, and consequently that, by that treaty, the stipulation of delivering up to each other, persons supposed to be fugitives from justice, was considered, by both governments, as a mutual, temporary, contract and provision, and, by no means, as has been contended, an article declaratory of an established maxim of international law.

"The delivery up, upon requisition, of the subjects of one state, accused of crimes, by another, in whose territories they may have taken refuge, is considered by *Grotius*, (*Book II, ch. 21, sect 4, 5, 6,*) *Puffendorf*, (*Book VIII, ch. 6, sect 12,*) and *Vattel*, (*Book 1, ch. 14, sect 232 233,*) the three luminaries by whom the present acknowledged law of nations is guided, as a matter of duty, on the part of the State to which they may have fled, but that duty they also confine to the delivering up alone of criminals, who, by their atrocious acts, have made themselves enemies of human kind; and, poisoners, murderers, incendiaries, and pirates, are alone specified as coming within the scope of that obligation. But, as, in the words of *Ward on the law of Nations*, (*Vol. II. p 319.*) "The right of protecting all who may come within the bounds of an independent community, has been always held one of the most valuable prerogatives of sovereignty, and any invasion of it has been strenuously contested," so, minor offences have never been held to prevent those who are accused of them, from taking refuge, and receiving protection, in a foreign state, nor have such ever been, *de jure*, deliverable, but only in case there be an express convention between the states for that purpose. For it is obvious, that, as different communities look upon similar acts in various lights, and what is a heavy crime in one country, is perhaps none in another, or considered as a light offence, and subject to a proportionate light punishment, so it would be the height of injustice and cru-