

maintaining, not an exclusively British interest, but an old, honored, 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, have won the respect and confidence of many nations. These principles were laid down for us in 1804, by James Madison, when Secretary of State in the administration of Thomas Jefferson, in instructions given to James Monroe, our Minister to England. Although the case before him concerned a description of persons different from those who are incidentally the subjects of the present discussion, the ground he assumed then was the same I now occupy, and the arguments by which he sustained himself upon it, have been an inspiration to me in preparing this reply.

"Whenever," he says, "property found in a neutral vessel 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, then, or just, that a belligerent commander who is thus restricted, and thus responsible in a case of mere property of trivial amount, should be permitted, without recurring to any tribunal whatever, to examine the crew of a neutral vessel, to decide the important question of their respective allegiances, and to carry that decision into execution by forcing every individual he may choose into a service abhorrent to his feelings, cutting him off from his most tender connexions, exposing his mind and his person to the most humiliating discipline, and his life itself to the greatest danger. Reason, justice and humanity unite in protesting against so extravagant a proceeding."

If I decide this case in favor of my own government, I must disavow its most cherished principles, and reverse and forever abandon its essential policy. The country cannot afford the sacrifice. If I maintain those principles, and adhere to that policy, I must surrender the case itself. It will be seen, therefore, that this government could not deny the justice of the claim presented to us in this respect upon its merits. We are asked to do to the British nation just what we have always insisted all nations ought to do to us.

The claim of the British government is not made in a discourteous manner. This government, since its first organization, has never used more guarded language in a similar case.

In coming to my conclusion I have not forgotten that, if the safety of this Union required the detention of the captured persons, it would be the right and duty of this government to detain them. But the effectual check and waning proportions of the existing insurrection, as well as the comparative unimportance of the captured persons themselves, when dispassionately weighed, happily forbid me from resorting to that defence.

Nor am I unaware that American citizens are not in any case to be unnecessarily surrendered for any purpose into the keeping of a foreign State. Only the captured persons, however, or others who are interested in them, could justly raise a question on that 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 nations, 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 disavow any such injury as we think she does by assuming 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 magnanimous people if we should so far consent to be guided by the law of retaliation as to lift up buried