

**THE HIGHWAY OF
THE SEAS IN TIME
OF WAR**

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HENRY W. LORD

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HIGHWAY OF THE SEAS

IN TIME OF WAR.

BY HENRY W. LORD, M.A.

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"In war, passion and hatred, and seeming necessity and the fancied interest of the moment, are apt to determine the actions of combatants: and powerful belligerents, relying on their might, oftentimes set at defiance the best-established rules of war."—*Sir W. Molesworth's Speech in the House of Commons, July 4th, 1864.*

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1862.

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PREFACE.

SINCE the following pages were written, intelligence has arrived in this country of the tardy surrender of Messrs. Mason and Slidell. This act of the Government of the Federal States takes away all necessity for immediate action, or even for immediate deliberation on the part of Great Britain. It is, however, not improbable that persons on both sides of the Atlantic may be found ready to see in this event an instance rather of the tyranny of overbearing force than of the triumph of the unalterable principles of Law and Justice. It becomes, therefore, all the more important—and this especially, when, by the light of the official correspondence on the subject, and of the comments which have since appeared in the public journals of the Federal States, we contemplate the possibility of future complications arising which may involve many of the same points under circumstances more favour-

able to the suppression of neutral rights—to have it clearly shown that in respect, as well of the general principle of the right of seizure, as of the mode in which that right was in this particular case exercised, the act of Captain Wilkes has been from first to last an unwarrantable violation of that independence of non-belligerent vessels, which in the interest of neutral nations, no less than in vindication of her own honour, Great Britain was morally bound to assert and to maintain by those means, which the Law of Nations sanctions when the principles of that law have been set deliberately at defiance.

HENRY W. LORD.

1, TANFIELD COURT, TEMPLE,
January 10th, 1862.

THE HIGHWAY OF THE SEAS.

IT is in the nature of things that questions of International Law can seldom or never be, at the same time, publicly and temperately discussed. The judgment of a nation is as liable as that of individuals to be warped by prejudice, or seduced by self-interest, or distracted by passion—is, indeed, more so, inasmuch as, when matters, which call for a people's judgment, are stirring, any questioning of motives is assumed to involve a lukewarm patriotism, and doubt appears disloyalty ill disguised. So comes it that, in times of popular excitement, difficulties, which practical experience and theoretic speculation have equally failed to overcome, are readily solved, or more readily disregarded, by impetuous ignorance or wilful misrepresentation; and the mind, deliberately impatient of argument, becomes unconsciously impatient of justice.

How far soever these remarks may be appropriate to the state of feeling which, if the reports and articles in public journals afford any fair criterion of national sentiment, does certainly prevail at the present time upon the further side of the Atlantic, the manner, in which, ever since the first ebullition of a perhaps hasty, but still a pardonable indignation subsided, this unfortunate complication of our relations with the Federal States of North America, has been generally discussed in England, at least justifies me in thinking that there are very many among us who are ready to welcome any attempt to collect and give consistency to the various principles and theories affecting that portion of international law which bears upon the case of the *Trent*; to sift and scrutinize the instances in past history which are alleged to be specially applicable to the points in dispute, and by such means as dispassionately as we can, having at heart the interest and the honour of our country, to ascertain whether the people of the Federal States have been too hasty in justifying, or we too hasty in condemning, the conduct of the commander of the *San Jacinto*. This attempt I now propose to make, and I will proceed at once to give a short statement of the facts of the case, so far as they are material to the end at which I aim,

omitting all mere matter of aggravation, and promising that, as no official papers have as yet been made public, and I derive my account exclusively from the various organs of the press, I shall not take as granted any part of the details essential for my purpose that is at all likely to be disputed.

On the 7th of November, 1861, the *Trent*, a steam-packet, carrying her Majesty's mails in the charge of an officer in her Majesty's service, sailed, according to previous advertisement, on one of the periodic voyages as an ordinary mail steamer from the Havannah, a Spanish settlement, to the island of St. Thomas, which is an appanage of the Danish Crown, with the purpose of meeting at the latter place, in the ordinary course of transit, the West India Mail steamer bound for Southampton.

On board the *Trent* were Messrs. Mason and Slidell, each accompanied by some members of his family, and a private secretary; for all these persons the usual fare had been paid, and their berths secured beforehand as ordinary passengers to England. These two gentlemen were known to hold a position of considerable influence and trust as members of the States seceding from the American Union; they had run the blockade from Charlestown to the Havannah, and were supposed to be in the possession of despatches, and charged

Statement
of the facts
of the case.