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THE RESPONSIBILITIES OF THE UNITED STATES, INTERNATIONALLY, FOR ACTS OF THE STATES.[1]

Should one of our States, by its act or default, offend either a sister State or a foreign power, and a definite legal obligation be thereby created, a remedy is offered by the Constitution and laws of the United States, through an ordinary civil action. The offended power may sue the offending power in the Supreme Court of the United States, and justice may be enforced through the process of that tribunal, in precisely the same manner as if the defendant were a private individual.

A suit can now be brought against a State by a citizen of another State or country only by the defendant's consent, since it has, in this respect the ordinary immunity of a sovereign. Some States have enacted general laws constituting a tribunal with jurisdiction to hear and adjudicate demands against the public treasury; and in all a sufficient remedy for any wrongful act done under claim of public authority is often afforded by an action against the officer who committed it, sued as an individual trespasser, with no reference to his official character. He must then justify under some law or public mandate, and the validity of this justification it will be for the court to determine.

But if no definite legal obligation has been created by the act or default of a State, of which complaint is made, there can in no case be any judicial remedy, whether in favor of another power or of a private individual. Wrong may have been done, but the question of redress becomes merely a political one.

[1] In the preparation of this notice free use has been made of a paper by the author—"de la responsabilité du pouvoir fédéral aux États-Unis au cas où les États particuliers s'abstiennent de réprimer les délits commis sur leur territoire"—which appeared in the *Revue du Droit public et de la Science politique en France et à l' étranger*, for Nov.-Dec., 1895.

If the complaint comes from another power, the injury to the offended sovereign may be of the kind just considered, that is, to him only because it is an injury to one of those whom he is bound to protect, and the individual so injured may often find an adequate remedy by a private action against the particular officer or citizen of the offending State who did the wrongful act. Such a suit, whether by a citizen of another State or by a foreigner, may be brought in the courts of the United States, and the defendant could not justify under any authority from his own sovereign, which was in derogation of the plaintiff's rights.

But if the injury to the offended sovereign be one of a political character, or one which cannot be made good by money, or if it be one which he is unwilling to submit to judicial determination, there can be no relief except through the voluntary concession of the State, or the intervention of the United States, acting through their executive or legislative authorities.

So far as the enforcement of contracts of any sort, executory or executed, is concerned, the United States are under no other obligation than that of affording the creditor, if a sovereign power, a remedy in their courts, by an ordinary civil action; and should he recover judgment, its collection would depend on the amount of the property of the State which was subject to judicial sequestration.

Each State, being a political and corporate unit, binds itself only by its contracts. Those who choose to trust it do so upon its own credit.

But the positive, wrongful acts of a State, other than defaults of contract obligations, stand on ground wholly different. So far as they affect another State, or its citizens, they often call justly for redress at the hands of the general government.

If the citizen of one State is denied in another the same commercial privileges or immunities which it concedes to its own citizens, the courts of the United States stand ready to vindicate his right.

If, to take a case of a more general character, one of the States should, in the absence of due authority from the President of the United States, march a body of its armed militia into or across a neighboring State without asking and obtaining its assent, adequate redress (other than by forcible resistance) could only be obtained by appropriate legislation at the hands of Congress. The United States, by their Constitution, are to guaranty to each State a republican form of government; and a republic, which can be invaded by armed troops without its own consent,

is a republic no longer. Congress, it would seem, could therefore make such acts an offense against the United States, to be repressed by the strong hand, or punished by judicial sentence.

That comity and equality of right and interest which exists between the States of the Union has generally been found sufficient to prevent the occurrence of such political difficulties or misunderstandings. But with respect to foreign powers, the circumstances are obviously different.

Let us examine some of the instances in which international questions have arisen from the act or default of a State.

Some sixty years ago an insurrection in Canada was supported by supplies received from ports on the New York side of Lake Ontario. The Canadian authorities undertook to seize the *Caroline*, an American vessel engaged in this illicit trade, within the territorial jurisdiction of New York. An engagement ensued, in which an American was killed. A Canadian, named McLeod, was indicted by the grand jury in a State court of New York for the homicide, on a charge of murder. Not long afterwards he incautiously ventured across the border and was placed under arrest. The British Government, which had ratified the expedition of the Canadian authorities, instructed their minister at Washington to demand his release. While the Department of State at first denied any responsibility in the matter, and then temporized, the President used every endeavor to secure the prisoner's discharge by the voluntary action of the State authorities. They declined to interfere with the ordinary course of judicial administration. A citizen of New York had been killed and it was for the State of New York to punish such an infraction of public order. If there was a defense on the ground of military orders, let it be made at the trial.

Such an attitude on the part of the State put the United States in a most disagreeable position. They represented to the British minister that under American law, all ordinary criminal jurisdiction belonged to the States, and that the statutes of the United States conferred upon its officials no power to coerce a State to discharge a prisoner under indictment. This was true, but it naturally proved unsatisfactory to the British government. They had no relations with the State of New York. They had relations with the United States, and it was from them that they demanded McLeod's release. No other course was open to them.[2]

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[2] See Chief Justice Taney's opinion in Holmes *v.* Jennison, 14 Pet. 540, 573, 577.

They were represented in the United States only by a minister, accredited to the United States, and the Constitutional prohibition against all agreements between any State and a foreign power, impliedly excludes all diplomatic negotiations which might be directed towards securing such an agreement.

An attempt was made to secure McLeod's discharge upon *habeas corpus* proceedings in the State courts, but it was unsuccessful.[3]

This decision was not received with satisfaction by the bar of the Union.[4] There can be no doubt that a private soldier is not liable to indictment for an act of war, performed by the order of his military superiors. The attack on the *Caroline* might have been an unjustifiable invasion of the territory of the United States, but when the British government assumed the responsibility for it, it became an international matter, too large to be settled or to be dealt with by proceedings of a criminal nature before a State tribunal.

During the progress of the cause, Daniel Webster succeeded Mr. Forsyth as Secretary of State, and in instructing the Attorney General to aid in the defense, acknowledged explicitly the justice of the British claims. "All that is intended to be said, at present," he wrote, "is that since the attack on the *Caroline* is avowed as a national act, which may justifiy reprisals, or even general war, if the government of the United States, in the judgment which it shall form of the transaction and of its own duty, should see fit so to decide, yet that it raises a question entirely public and political; a question between independent nations, and that individuals concerned in it cannot be arrested and tried before the ordinary tribunals, as for the violation of municipal law. If the attack on the *Caroline* was unjustifiable, as this government has asserted, the law which has been violated is the law of nations, and the redress which is to be sought is the redress authorized, in such cases, by the provisions of that code.

"You are well aware that the President has no power to arrest the proceeding in the civil and criminal courts of the State of New York. If this indictment were pending in one of the courts

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[3] McLeod's Case, 25 Wend. 482; 1 Hill, 377; 37 Am. Dec. 328.

[4] See the criticisms of Judge Talmadge, 26 Wend. 663, and reply to these, 3 Hill, 635. Mr. Webster, in 1846, referred to the opinion of the Court, during a debate in the Senate of the United State, as not a "respectable" one, either in its reasoning or its conclusions. Lord Lyndhurst inclined to a different view, if we can judge from an informal expression of opinion quoted from Greville's Memoirs, 3 Whart., Int. Law Dig. 321.

of the United States, I am directed to say that the President, upon the receipt of Mr. Fox's last communication, would have immediately directed a *nolle prosequi* to be entered.

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"It is understood that McLeod is holden also on civil process, sued out against him by the owner of the *Caroline*. We suppose it very clear that the Executive of the State can not interfere with such process, and, indeed, if such process were pending in the courts of the United States, the President could not arrest it. In such, and many analogous cases, the party prosecuted or sued must avail himself of his exemption or defense by judicial proceedings, either in the court into which he is called or in some other court. But whether the process be criminal or civil, the fact of having acted under public authority and in obedience to the orders of lawful superiors, must be regarded as a valid defense; otherwise individuals would be holden responsible for injuries resulting from the acts of Government, and even from the operations of public war."[5]

The trial of McLeod for murder at last came on. At the request of the Governor of New York, the Chief Justice of the State presided. The United States virtually assumed his defense, and both the District Attorney and the Attorney General were present during the proceedings. England had sent over additional troops to Canada and it was well understood that the most serious consequences might follow in case of his conviction. The Attorney General had been specially instructed in that event to sue out a writ of error from the Supreme Court of the United States. Much to the relief of the government, however, McLeod was acquitted on the plea of an *alibi*. The Secretary of State then urged upon Congress the passage of a statute giving the Judges of the courts of the United States power to discharge by writ of *habeas corpus* prisoners held under State authority, in contravention of the laws or international obligations of the general government. Such an act was promptly passed and is still on our statute books (Aug. 29, 1842, 5 U. S. Stat. at Large, 539; Rev. Stat. sec. 753).

Another instance of the interposition of the United States, to occupy what would otherwise be part of the domain of the State Governments in order the better to meet their international responsibilities, is afforded by the Acts of Congress of 1884 and 1891, in regard to the counterfeiting of securities of foreign gov-

[5] Webster's "Diplomatic and Official Papers," 135.

ernments (23 Stat. at Large, 22; 26 Stat. at Large, 742). Some years ago it was discovered that the country was becoming the seat of extensive forgeries of that nature. This was a matter of little concern to the several States. They were under no international obligation to interpose. It was otherwise with the general government. The golden rule is a proper canon of international law for nations which may choose to adopt it. Congress enacted a law, making such forgeries highly penal. A prosecution was brought against one Arjona, for its violation. His counsel argued that such legislation transcended the powers of Congress, because it could legitimately be had at the hands of the State, in which the forgery was committed. The case came, on appeal, before the Supreme Court of the United States, and it was there held that whether the State had or had not made the act penal, Congress could. If the treasury notes of the United States were being counterfeited, in a country with which they had diplomatic relations, they could reasonably treat it as an unfriendly act, if, on calling the matter to the attention of the government, it was not repressed. "But," said the Court, "if the United States can require this of another, that other may require it of them, because international obligations are of necessity reciprocal in their nature. The right, if it exists at all, is given by the law of nations, and what is law for one is, under the same circumstances, law for the other. A right secured by the law of nations to a nation, or its people, is one the United States as the representatives of this nation are bound to protect. Consequently, a law which is necessary and proper to afford this protection is one that Congress may enact, because it is one that is needed to carry into execution a power conferred by the Constitution on the Government of the United States exclusively. There is no authority in the United States to require the passage and enforcement of such a law by the States. Therefore, the United States must have the power to pass it and enforce it themselves, or be unable to perform a duty which they may owe to another nation, and which the law of nations has imposed on them as part of their international obligations. This, however, does not prevent a State from providing for the punishment of the same thing; for here, as in the case of counterfeiting the coin of the United States, the act may be an offense against the authority of a State, as well as that of the United States."[6]

The New Orleans incident of 1891 has given a new point to these observations.

[6] United States *v.* Arjona, 120 U. S. 487.

Mob violence to foreigners is in all countries a frequent cause of international differences. In most, the government whose peace was broken is the only government concerned. It was its business to prevent the disorder. It is its business to answer for its failure to prevent it, and the consequences which have ensued.

But in the United States it is rare that a riot infringes any of their laws. It may, if it results in obstructions to commerce between the States or with foreign countries, or if it is in direct contempt of the Federal authority. But in the great majority of cases rioters are only guilty of violating the peace and order of the State.

Such has been the fact with respect to the attacks made from time to time in some of the Territories or States of the far West on Chinese or Italian laborers, and to the assassination of the Italian prisoners in the jails of New Orleans.

Upon the happening of some of these outrages, however, particularly in recent years, demands for satisfaction have been made upon the United States by the government whose subjects were the sufferers. In each the United States have disclaimed any responsibility. In several, however, they have made pecuniary compensation from the national treasury, offered as a gratuity and received as a right.[1]

[1] On February 3, 1896, the President sent a special message to Congress in reference to the massacre of a number of Italian laborers at Walsenburg, Colo., in March, 1895, which had been brought to his attention by the Italian ambassador, and recommended an appropriation for their families in these words: "Without discussing the question of the liability of the United States for these results, either by reason of treaty obligations or under the general rules of international law, I venture to urge upon the Congress the propriety of making from the public Treasury prompt and reasonable pecuniary provision for those injured and for the families of those who were killed." He also transmitted a copy of a letter on the subject to him from the Secretary of State, in which Mr. Olney uses this language: "The facts are without dispute, and no comment or argument can add to the force of their appeal to the generous consideration of Congress. Three persons were killed outright, while two others sustained injuries of a character the most disabling as well as painful. The only question would seem to be as to the amount of the gratuity in each case, which must rest, of course, wholly in the discretion of Congress, to whom it can hardly be necessary to cite the statutes of many States of the Union fixing the maximum to be exacted in the case of a death caused by negligence at the sum of $5,000."

The message also showed that the President had requested the Governor of Colorado (A. W. McIntire, Class of 1875, Yale Law School) to endeavor to procure the summoning of a grand jury from some distant part of the State to pass upon indictments which were to be presented against some of those involved in the massacre, but that that had been found impracticable under the laws of Colorado.

For such offenses there is often practically no redress in the States where they are committed. They naturally occur in communities where social conditions are new or unsettled; where might makes right; where there is class feeling and class organization.

New Orleans is one of the oldest of American cities, but it is the market of a great stretch of territory, where the capital and intelligence are in the hands of a few, surrounded by a mass of ignorant laborers, led often by vicious and unprincipled men. Society has been there too often kept within bounds by the pistol rather than the jail. It is also in large part a foreign city. The "French quarter" is as un-American as if it were in the heart of Paris, or, rather, of the Paris of the days of the first empire.

In 1850 it was the scene of a riot in which the property of a number of Spaniards was destroyed, in retaliation for the execution at Havana of several Americans who had gone there to aid the Cubans in a contest for independence. Spain presented a claim for indemnity against our government. We declined to recognize its justice, but on the recommendation of the President Congress in 1853 made an appropriation to satisfy it.[8]

In 1890 the cotton handlers at the New Orleans docks struck for higher wages. The local trades-unions, butchers, bakers, milkmen and street railway operatives, struck in aid of them. For two days no street cars ran, no milk was served, no fresh provisions were on sale. Then a call appeared in the morning newspapers for a meeting of the Committee of Safety. This, if the newspaper reports may be trusted, is or was a body of fifty of the leading citizens, organized for such emergencies, but ordinarily dormant. Its deliberations are secret; its actions prompt. A sub-committee of its members soon called upon the leaders of the strike and informed them that if it were not called off by six o'clock on the next morning they would be held "personally responsible." This is an euphemistic phrase well understood in that connection at New Orleans. It signifies death. The chairman of the sub-committee was the President of one of the largest concerns in the city. They meant what they said. The strikers understood them. At six o'clock the next morning the milkmen were at the door, and the strike was over.

The massacre of the Italians in jail in 1891 was countenanced, and it might almost be said committed by men of the same high standing in the community. They justify it by the law of neces-

[8] 3 Whart. Int. Law Dig. § 226.

sity. Perhaps the validity of the plea cannot fairly be judged by those who live under different social conditions. But, be this as it may, it is evident that a trial of such men before the courts of their own States, for a homicide committed under the auspices of the Committee of Safety, would be only a form of declaring their innocence.

It is equally evident that a foreign power, whose subjects had been the victims of the outrage, and which would be bound to answer directly to the United States, were an American citizen killed in an anti-American riot within its territory, would find it difficult to be contented with the result of any such local prosecution. Particularly would this be true, where by treaty it had agreed with the United States that each should afford due protection to the persons and property of citizens of the other power, when within its jurisdiction. The fact that a civil remedy existed in favor of the heirs of the persons massacred and under certain conditions could be had in the Federal Courts[9] would not be accepted as offering a sufficient atonement for the wrong. Public justice would be expected, and, if possible, required.

Considerations of this nature have recently led Congress to inquire into the practicability and expediency of giving the Courts of the United States cognizance of crimes of this character.

Their attention was called to it by President Harrison in his annual message in December, 1891, in connection with the information which he communicated regarding the New Orleans massacre, and legislation recommended in these words:

"Some suggestions growing out of this unhappy incident are worthy the attention of Congress. It would, I believe, be entirely competent for Congress to make offenses against the treaty rights of foreigners domiciled in the United States cognizable in the Federal Courts. This has not, however, been done, and the Federal officers and courts have no power in such cases to intervene either for the protection of a foreign citizen or for the punishment of his slayers. It seems to me to follow, in this state of the law, that the officers of the State charged with police and judicial powers in such cases must, in the consideration of international questions growing out of such incidents, be regarded in such sense as Federal agents as to make this Government answerable for their acts, in cases where it would be answerable, if the United States had used its constitutional power to define and punish crimes against treaty rights."

[9] Comitez *v.* Parkerson, 50 Fed. Rep. 170; 56 Fed. Rep. 556.

The only express grant in the Constitution of power to Congress which could be claimed to cover such an Act as the President suggested, is that (Art I. Sec. 8) as to the definition and punishment of offenses against the Law of Nations. This would seem entirely adequate, for that law rests largely upon principles asserted or recognized by treaties, and considers the infraction of any engagement of that character as a legitimate cause of war.

A treaty with us also being a law as well as a contract, Congress has the same right to punish all who may offend against its provisions that it has to punish those who violate statutes of its own enactment. Logan *v.* United States, 144 U. S. 263, 283.

The judicial power of the United States is declared to extend to all cases in law and equity arising under their Constitution or laws, or treaties made by due authority. Already, by act of Congress, an indictment for murder in a State court can be removed at the will of the defendant, into a court of the United States for trial, if his defense rests on a claim of authority derived from the United States. There are certainly strong grounds for asserting that it is equally within the competency of Congress to invest those courts with power to adjudge whether by any act of violence an international or treaty obligation of the United States has been wrongfully infringed on American soil.

The Fourteenth Amendment to the Constitution appears to lend new support to this position, in its prohibition against the enactment or enforcement by the States of laws to deprive any person within their jurisdiction from receiving the equal protection of their laws. If violence is committed against foreigners, *qua* foreigners, in any State, by its authority, the United States might claim with great force that under this Amendment they have the power to redress it. But such action—directed against the enforcement of a State law—would seem to derogate much more from the sovereignty of the State, than action taken against individual wrongdoers, who attack foreigners as such, without law.

Resident or visiting aliens, who are subjects of a friendly power, so long as they are permitted to remain, may well claim that they are entitled to the aid of the government within whose jurisdiction they find themselves, so far as is necessary to the security of their persons and property, as fully as it is given to its own citizens. (Cf. U. S. Rev. Stat. Sec. 5299).

The people of the United States in distributing sovereign power have seen fit to leave to each State the duty of preserving order within its territory. But they have seen fit also to make

the government of the United States their sole representative with respect to all matters of international intercourse and diplomatic negotiation, and to the United States only, therefore, can a foreign power look for satisfaction, in case of an injury to its subjects, committed within any State.

An American citizen owes a double allegiance. He is a citizen of his State as well as of the United States. He can commit treason against either or both. He is entitled to protection from each. But if he is molested when traveling abroad by a foreign power, or by subjects of a foreign power with its connivance or in consequence of its default, reparation will be demanded by the United States, and not by the State to which he belongs.

As was said by the court in the *Arjona* case, above quoted, the United States have inherent power to defend their international obligations, and whatever right they may possess by the general principles of international law against any other nation, a similar right that nation possesses against them.

If an American State, upon whose soil wrong is done to a foreigner, has done what it can, and what international law demands of a sovereign power, to prevent or redress the wrong, the United States may well repose upon the action thus taken as a sufficient answer to any diplomatic claims for reparation. But if such action has not been taken by the State; if its officials extended no protection, and its tribunals afford no redress, or afford it only in form, the question becomes a pertinent one, as is suggested in President Harrison's message, whether the people of the United States, in constituting and bounding their depositaries of power, have failed to provide for the consequences of such defaults. Have they created themselves a nation for international purposes, with the power to contract, but not to discharge international obligations?

The territory of each State is also the territory of the United States. Each government has a police power, commensurate with its necessities. That of the United States has been exerted since the Civil War in many directions which before were deemed not open to it. By one Act of Congress it has been extended to the prevention of fraud at State elections, at which ballots are also cast for persons to hold office under the Constitution of the United States; by another, to the regulation of every harbor on the coast. The expediency of legislation of this description is a matter of Congressional discretion; its validity has never thus far been successfully disputed.

If the United States are thus asserting national prerogatives

for the better security of the domestic and internal interests committed to their charge, may they not with propriety be expected to proceed in a similar direction for the discharge of their obligations to foreign powers?

The American Bar Association at three of its recent annual sessions, made this subject a matter of deliberation; but ultimately declined to make any declaration of opinion as to whether further legislation by Congress was, or was not desirable.[10]

Among the measures discussed before that body was the draft of an Act of Congress, in the following form:

"AN ACT

"to enforce treaty provisions for the protection of foreigners against acts of violence.

"*Be it enacted by the Senate and House of Representatives of the United States, in Congress assembled:*

"Section 1. If any act of violence shall be committed within any State or Territory of the United States against the person or property of any citizen or subject of a foreign Government, between which and the United States there exists a treaty at the time, and such act is one which would constitute a crime or misdemeanor at common law, but is not an offense prohibited, or the punishment whereof is otherwise specially provided for by any statute of the United States; and if the party committing said act is not arrested and held for trial within six months after its commission, under the laws of such State or Territory; then, should the Minister or other accredited diplomatic representative of such foreign government complain to the Secretary of State of the United States, that said act, or the omission to hold for trial the party committing the same was an infraction of such treaty, the President of the United States may, if he be of opinion that there are grounds for such complaint, direct criminal proceedings to be instituted against such party, in the proper Courts of the United States, holden within said State or Territory.

"Section 2. In any proceeding so instituted by direction of the President, the act committed by the party accused shall subject him to the same punishment as that prescribed by the laws in force at the time of the commission of such act, of such State or Territory, for such acts; and if said laws prescribe no punishment therefor, then said act shall be punishable in said pro-

[10] Reports of Am. Bar Association, Vols. XIV. 59; XV. 395, 47; XVI. 17, 51, 323.

ceeding as at common law; and no subsequent repeal of any such State or Territorial law shall affect any prosecution for such offense in any Court of the United States.

"Section 3. The institution of such proceedings in a proper Court of the United States shall operate as a bar to any future proceedings of a criminal nature against the defendant therein in any State or Territorial Court."

A statute of such a character as this would appear fully within the legislative powers of the United States, and in the absence of a treaty, international obligations might justify provision for similar relief.

The Courts of the United States are thrown open to aliens in civil causes, by the express terms of the Constitution; but since in our system of judicial procedure, the civil remedy for an act is kept distinct from the public remedy, it is the more important that the latter should be promptly and efficiently applied.

The proposed law, in giving the national courts criminal jurisdiction in case of an injury to aliens of the kind in question, would secure an investigation of the affair before a jury not of the immediate vicinage, and not, therefore, likely to be actuated by neighborly feelings favorable to the accused, acting under the superintendence of a judge, not responsible to the State, and who, as he holds office for life, is in an independent position, as respects local or political influences. The court, also, being an arm of the government charged with the direction of all foreign relations, would be measurably within its control, and its disposition of the accusation might be confidently asserted by the department of State to be such as comported with justice and international right. The adoption of the local laws to define the offense and measure the penalty is in line with the general policy of the United States in administering judicial relief concerning matters originating in any particular State. U. S. Rev. Stat., Sections 721, 914, 5391, 5512, 5539. *In re* Coy, 127 U. S. 731, 752.

In his correspondence with the British Minister, as to the McLeod case, Mr. Webster referred to the probable event of the prosecution in language which he probably recalled afterwards with regret that he had not expressed himself with greater reserve.

"The indictment," he wrote, "is pending in a State court, but his rights, whatever they may be, are no less safe, it is to be

presumed, than if he were holden to answer in one of the courts of this government.

"He demands immunity from personal responsibility by virtue of the law of nations, and that law in civilized States is to be respected in all courts. None is either so high or so low as to escape from its authority in cases to which its rules and principles apply.

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"It is understood that the indictment has been removed into the Supreme Court of the State by the proper proceeding for that purpose, and that it is now competent for McLeod, by the ordinary process of *habeas corpus*, to bring his case for hearing before that tribunal.

"The undersigned hardly needs to assure Mr. Fox that a tribunal so eminently distinguished for ability and learning as the Supreme Court of the State of New York may be safely relied upon for the just and impartial administration of the law in this as well as in other cases."[11]

In the following year the passage of the new Federal *Habeas Corpus* Act having become assured, Mr. Webster was able to reply with better reason to a renewed complaint from Lord Ashburton, then the British minister at Washington, that "the Government of the United States holds itself not only fully responsible but fully competent to carry into practice every principle which it avows or acknowledges, and to fulfill every duty and obligation which it owes to foreign governments, their citizens or subjects."[12]

This pledge made by the executive department more than half a century ago, it may be fairly doubted if the legislative department has yet fully redeemed. No other position, however, than that taken by Mr. Webster comports either with the dignity of the United States, as one of the great powers of the world, or with their duties towards other nations, whose subjects are upon our soil, and claim the protection of our flag.

Simeon E. Baldwin.

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[11] Webster's Diplomatic and Official Papers, 126.

[12] *Ibid.* 120; letter of August 6, 1842.