

in our First Report (page 23) as a striking example of the exorbitant nature of some of the claims. There can be no doubt that the original claim was very extravagant, but in the 'Revised Statement' it has been doubled by improperly adding the insurances to the alleged values.

"The Union Jack.—In the 'Original List' it is stated that G. Potter, *after deducting the amount received from the Atlantic Insurance Company*, claims the sum of \$7,584; but in the 'Revised Statement' (p. 111) he claims the sum of \$34,526, *without making any deduction for insurances*, although the insurance companies at the same time claim \$32,014 in respect of the amount insured by them; and it therefore clearly follows that a sum, at any rate exceeding \$26,000, is claimed twice over.

The Catherine.—In the 'Original List' the owners claimed about \$45,000 for *vessels and secured earnings*, but made no claim in respect of *prospective earnings*. Now, in the 'Revised Statement' (p. 229) there is a claim put forward of \$35,329 for loss of *vessel and cargo*, over and above \$31,676, the alleged amount of insurances by the owners, which is also at the same time claimed by the insurance company. In addition to this there is a claim for *prospective earnings* exceeding \$19,600, so that the original claim of \$45,805 has now grown to the enormous sum of \$272,108.

"The Favourite.—She was a barque of 393 tons. In the 'Original List' the Atlantic Insurance Company, as insurers and assignees of the owners, claimed for loss on *vessel and outfit* \$40,000, which there can be little doubt was the full value. In the 'Revised Statement' (p. 240) the claims in respect of the *vessel and outfit* amount altogether to \$110,000. The master, in the 'Original List,' claimed \$1,498 for the *loss of his effects*; but now he claims for the *loss of his personal property*, \$2,239, and for *loss of interest in oil and bone*, \$2,709.

"The Isaac Howland.—In the 'Original List' the claim for *prospective earnings* was \$53,075, but in the 'Revised Statement' (p. 247) it has grown to nearly four times that sum, namely, to \$196,158. Moreover, in the 'Original List,' the owners claimed \$65,000 for ship and outfit, *subject to abatement for insurance*; whereas, in the 'Revised Statement,' they claim the same sum, but *protest against any diminution of claim by reason of insurance obtained by them*, although the insurance companies claim at the same time the whole amount insured by them.

"The General Williams.—In the 'Original List' the owners claimed \$40,503 as *damages by the destruction of the vessel*, over and above \$44,673, the amount of insurances received by them. In the 'Revised Statement' (p. 241) there is added to the amount of insurances a sum of \$85,177, the claim being in this manner all but doubled. There are also added the following claims:—A claim by the owners for *prospective earnings* amounting to \$196,807; a claim by the master for loss of *prospective catch, time, and occupation*, amounting to \$20,000; a similar claim by the mate, amounting to \$10,000; another claim of \$30,000 for *insurances on vessel and outfit*; and finally, the sum of \$16,000 for *insurances by the owners on the vessel's prospective earnings*. In this manner the original claim, which was less than \$66,000, has grown to the sum of \$406,934, and has therefore been increased more than six-fold."

19. One more subject remains to be dealt with. The United States, in their Argument (pages 484-5), have appealed to certain historical precedents. After stating, in a passage already referred to (and to which, it is hoped, a full and sufficient reply has been made), that they conceive this demand of interest, as an element of damage, to be "conformable to public law, and to be required by paramount considerations of equity and justice," they add:—

"Numerous examples of this occur in matters of international valuation and indemnity.

"Thus, on a recent occasion, in the disposition of Sir Edward Thornton, British Minister at Washington, as Umpire, of a claim on the part of the United States against Brazil, the Umpire decided that the claimants were entitled to interest by the same right which entitled them to reparation. And the interest allowed in this case was (45,077 dollars) nearly half of the entire award (100,740 dollars).

"So, in the case of an award of damages by the Emperor of Russia in a claim of the United States against Great Britain under the Treaty of Ghent, additional damages were awarded in the nature of damages from the time when the indemnity was due. In that case, Mr. Wirt holds that, according to the usage of nations, interest is due on international transactions.

"In like manner Sir John Nicholl, British Commissioner in the adjustment of damage between the United States and Great Britain under the Jay Treaty, awards interest, and says:—

"To reimburse to claimants the original cost of their property, and all the expenses they have actually incurred, *together with interest on the whole amount*, would, I think, be a just and adequate compensation. This, I believe, is the measure of compensation usually made by all belligerent nations for losses, costs, and damages occasioned by illegal captures."

20. There can be no greater fallacy, and there is also none more familiar to the practical experience of jurists, that this kind of general reference to precedents, which, when the facts are examined, are found to differ from the case to which they are sought to be applied, in all, or some, of the most essential points, upon which the question in controversy depends.

Let us now examine these "examples" in their proper historical order, which has been inverted in the Argument of the United States.

21. The earliest in date is that of the claims under the "Jay Treaty," *i.e.*, the Treaty between Great Britain and the United States, signed at London on the 19th November, 1794. That Treaty contained two Articles applicable to different descriptions of claims. The Vith Article was in these terms:—