

belligerency of the South American States; although, as Mr. Seward stated in one of his despatches, the United States have never issued a proclamation of neutrality except in the case of France and England in 1793. This was proved in the civil war by the reception at Curacao of the Confederate vessel "Sumter" as a belligerent cruiser, though the Netherlands had issued no Proclamation of neutrality. It was this recognition of the "Sumter," after her departure from New Orleans (July 6, 1861), at Curacao, and at Cienfuegos, which first practically accorded maritime belligerent rights to the Confederates, a fact which is overlooked when it is alleged that Confederate "belligerency, so far as it was maritime," proceeded "from the ports of Great Britain and her dependencies alone."

Indeed, it is not going too far to say that the Confederates derived no direct benefit from the Proclamation. Their belligerency depended upon the fact (a fact which, when we are told that the civil war left behind it two millions and a-half of dead and maimed, is unfortunately indisputable) that they were waging civil war. If there had been no Proclamation, the fact would have remained the same, and belligerency would have had to be recognised either on behalf of the Northern States by admitting the validity of captures on the high seas for the carriage of contraband or breach of blockade, or on the arrival of the "Sumter," or some similar vessel in a British port.

In no case can it be really supposed that the recognition of belligerency, which, unless neutral nations abandoned their neutrality and took an active part in the contest, was inevitable, materially influenced the fortunes of such a fearful and protracted civil war.

At all events, if it did, the Confederates never acknowledged it; the recognition of belligerency they regarded (as indeed was the case) as a right which could not be denied to them. What they sought was not the mere technical title of "belligerents," but a recognition of independence, and, when they found that it was hopeless to expect England to accord it, they cut off all intercourse with this country, expelled Her Majesty's Consuls from their towns, and did everything in their power to show the sense which they entertained of the injury which they believed had been inflicted upon them. The result being that, while one side has blamed us for doing too much, the other side has blamed us for doing too little; and thus an assumption of neutrality has been regarded both by North and South as an attitude of hostility.

As to the Queen's Proclamation rendering lawful the despatch of the "Alabama," "Shenandoah," and "Georgia," from British ports, to which it is to be presumed the expression "maritime enterprises" refers, it is to be remarked that it is exactly against such enterprises that the Proclamation reciting the terms of the Foreign Enlistment Act was intended to warn British subjects. Instead of rendering them lawful it rendered them additionally unlawful, by giving notice of their illegality.

There would be no difficulty in showing by precedents from American Prize Courts that no Proclamation of neutrality is required to confer belligerent rights on vessels commissioned by a *de facto* Government.

It is admitted that at the time these "enterprises" were undertaken, "hostilities" in America were being prosecuted "on a scale of gigantic magnitude." After, therefore, the "Alabama" escaped on the 29th of July, 1862, she became, by virtue of her Confederate Commission, un-

doubtedly a belligerent cruiser, irrespective of any acknowledgment of belligerency by Great Britain, and was received accordingly by the French authorities at Martinique, where she first touched after leaving Liverpool.

A pirate is *hostis humani generis*, one owing obedience to no authority. If the "Alabama" had been really a pirate depredating on American commerce, it would have been the duty of the French to seize her and execute justice on her commander and crew, a pirate being triable wheresoever found.

Judge Nelson, in the case of the Confederate privateer "Savannah," ruled that though Confederate privateers were pirates *quoad* American jurisdiction, they were not pirates *jure gentium*; and, in the case of the "Golden Rocket," in which the owner brought an action in an American Court against an Insurance Company for the capture of his ship by the "Florida," he being insured against piracy but not against war risk, it was decided that captures by Confederate cruisers were not "piracy" within the usual meaning of the word, and that the Company was not liable.

The American Courts having thus conclusively dealt with the matter, it is unnecessary to pursue the subject further. What is probably meant is, that if the Confederates had not possessed a *de facto* Government, and had not been belligerents in the sense of waging public war, vessels under their Commission would have been mere roving adventurers, pursuing merchantmen for the sake of private plunder, in short, pirates; but by the admission that "hostilities" (the very word to which exception is taken in the Neutrality Proclamation), were being prosecuted on a great scale, the only ground on which such a supposition could rest is cut away.

## II. The Dispatch of Confederate Cruisers from British Ports.

Any one who read the despatch without any previous knowledge of the subject, might suppose from the language used, that fleets of privateers had been dispatched from British ports with the connivance if not with the direct support of Her Majesty's Government:—

"Great Britain . . . permitted armed cruisers to be fitted out," &c.

"The Queen's Government . . . suffered ship after ship to be constructed in its ports to wage war on the United States."

"Many ships . . . were, with ostentatious publicity, being constructed."

"Permission or negligence which enabled Confederate cruisers from her ports to prey," &c.

"Great Britain alone had founded on that recognition a systematic maritime war." . . . "a virtual act of war."

"Suffering the fitting out of rebel cruisers."

The fact being, that *only one vessel*, of whose probable intended belligerent character the British Government had any evidence, escaped, viz., the "Alabama."

The "Shenandoah" was a merchant ship employed in the India trade under the name of the "Sea King." Her conversion into a Confederate cruiser was not heard of until more than a month after she had left England.

The "Georgia," or "Japan," was actually reported by the Board of Trade surveyor, who had no idea of her destination, to be built as a merchant-ship, and to be rather crank. Nothing was known of her proceedings until she had taken her arms and crew on board in Morlaix Bay, and reached Cherbourg. Her real point