PART VII.

STATEMENT OF FACTS RELATIVE TO THE GEORGIA.

PART VII.—The Georgia.

On the 8th April, 1863, Mr. Adams addressed to Earl Russell a note respecting a steam-vessel, built in Dumbarton, in Scotland, and at first known as the Japan, but subsequently as the Georgia.

This vessel had put to sea six days before the date of Mr. Adams's note, and was at that date out of the Queen's dominions. No information whatever relating to her had previously reached Her Majesty's government. Mr. Adams's note was as follows:[1]

Mr. Adams to Earl Russell.

LEGATION OF THE UNITED STATES,
London, April 8, 1863.

MY LORD: From information received at this legation, which appears entitled to credit, I am compelled to the painful conclusion that a steam-vessel has just departed from the Clyde with the intent to depredate on the commerce of the people of the United States. She passed there under the name of the Japan, but is since believed to have assumed the name of the Virginia. Her immediate destination is the island of Alderney, where it is supposed she may yet be at this moment. A small steamer called the Alar, belonging to Newhaven, and commanded by Henry P. Maples, has been loaded with a large supply of guns, shells, shot, powder, &c., intended for the equipment of the Virginia, and is either on the way or has arrived there. It is further alleged that a considerable number of British subjects have been enlisted at Liverpool, and sent to serve on board this cruiser.

Should it be yet in the power of Her Majesty's government to institute some inquiry into the nature of these proceedings, in season to establish their character if innocent, or to put a stop to them if criminal, I feel sure that it would be removing a heavy burden of anxiety from the minds of my countrymen in the United States.

I pray, &c.,
(Signed) CHARLES FRANCIS ADAMS.

From dispatches addressed by Mr. Adams and Mr. Dudley to their own Government, it appears that the consuls of the United States at Glasgow and Liverpool, and Mr. Adams himself, had for a long time been in possession of information respecting this vessel, and that she had long been an object of suspicion to them. Mr. Adams, on the 9th April, 1863, wrote as follows to Mr. Seward:

Lastly, comes the case of the Japan, *alias* the Virginia. I have been long in the possession of information about the construction and outfit of that vessel on the Clyde, but nothing has ever been furnished to me of a nature to base proceedings upon. Learning, however, that she had gone to the island of Alderney to take her armament there, I made up my mind to send notice of it to the British government, and leave it to them to act in the case as they might think fit.

Mr. Dudley, on the 3d April, had written as follows to Mr. Seward:

Mr. Underwood, our consul at Glasgow, has no doubt informed you about the steamer now called the Japan, formerly the Virginia, which is about to clear from this port for the East Indies. Some seventy or eighty men, twice the number that would be required for any legitimate voyage, were shipped at Liverpool for this vessel, and sent to Greenock on Monday evening last. They are shipped for a voyage of three years. My

[1] Appendix, vol. i, p. 399.

belief is that she belongs to the confederates, and is to be converted into a privateer; quite likely to cruise in the East Indies, as Mr. Young, the paymaster from the Alabama, tells me it has always been a favorite idea of Mr. Mallory, the secretary of the confederate navy, to send a privateer in these waters. I sent a man from here to Glasgow to accompany these men, to endeavor to find out the destination of the vessel, &c. He has not been successful yet in his efforts. He has been on board, and writes that she has no armament, and he is still there watching her.

No communication respecting this vessel was made to Her Majesty's government until the 8th April, six days after her departure from British waters.

The receipt of Mr. Adams's note of the 8th April was unofficially acknowledged by Mr. Hammond, one of the under-secretaries of state for foreign affairs, as follows:[1]

Mr. Hammond to Mr. Adams.

[Private.] FOREIGN OFFICE, *April* 8, 1863.

MY DEAR SIR: I found your immediate letter on my arrival at the office at 12.45, and as your mail goes, I believe, to-day, you may like to know at once that within [121] half an hour of that time it was sent to the *home office, within whose particular jurisdiction are the Channel Islands. A copy will also be sent to the treasury as soon as it can be made.

You shall have an official acknowledgment of your letter as soon as I can get Lord Russell's signature, but he is out of town.

Very faithfully, &c.,
(Signed) E. HAMMOND.

Copies of Mr. Adams's note were, on the same day, sent to the home office and the treasury, and those departments were requested to adopt, without delay, the measures most suitable for ascertaining the correctness of the report, and, if it should prove to be well founded, then to take the most effectual measures allowed by law for defeating the alleged attempt to fit out a belligerent vessel from a British port, and for bringing to justice all persons connected with the vessel who might have rendered themselves amenable to the law.

In pursuance of this request, the following letter was addressed by the under-secretary of state for the home department to the lieutenant-governor of Guernsey:[2]

Mr. Waddington to Major-General Slade.

WHITEHALL, *April* 8, 1863.

SIR: I am directed by Sir George Grey to transmit to you herewith, as received through the foreign office, a copy of a letter from the United States minister at this court, respecting a steam-vessel named either the Japan or the Virginia, reported to have left the Clyde for Alderney, where she is to receive on board an armament conveyed to that island by a small steamer, the Alar, belonging to Newhaven, and is to be eventually employed in hostilities against the United States; and I am to request that you will make immediate inquiry into the truth of the allegations contained in that communication.

I have to call your attention to the statute 59 Geo. III, cap. 69. Section 7 appears to be applicable to this case, if the information which has been given to the minister of the United States of America should turn out to be correct. In that case the law-officers of the Crown should be instructed to take without delay the proper proceedings authorized by the law of Alderney, to enforce the provisions of the act in question, and the officers of customs may be called upon to assist, if necessary.

Sir George Grey will be glad to be informed of the result of the inquiry, and of any steps that may be taken in consequence.

I have, &c.,
(Signed) H. WADDINGTON.

The lieutenant-governor, on receiving these instructions, desired

[1] Appendix, vol. i, p. 399. [2] Ibid., p. 401.

Captain de Saumarez, commanding Her Majesty's ship Dasher, to proceed at once to Alderney. It was found, however, that Mr. Adams's information as to the immediate destination of the two vessels mentioned in his note was erroneous.

The commissioners of customs were, on the same day, (8th June,) directed by the lords commissioners of the treasury to instruct their officers at Alderney to co-operate with the lieutenant-governor of Guernsey. This order was forthwith executed, and the commissioners wrote to the same effect to their officers at Guernsey. They likewise instructed the collectors of customs at Greenock and Glasgow to report all the information which they might be able to obtain respecting the Japan.

The collector at Greenock reported as follows:[1]

Mr. Hodder to commissioner of customs.

CUSTOM-HOUSE, *Greenock, April* 10, 1863.

HONORABLE SIR: With reference to the board's commands signified by Mr. Gardner's letter of yesterday's date, directing me to report to the board all the particulars I may be enabled to ascertain respecting a vessel called the Japan or Virginia, which it is alleged has recently sailed from the Clyde, to be employed against ships of the United States, I beg to report an iron vessel named the Japan, Thomas Hitchcock master, registered at Liverpool as 427 tons, official No. 45868, was built at Dumbarton and measured by the measuring officer at Glasgow, came down the river and proceeded to Gareloch Head, to adjust her compasses, and afterward brought up at the Tail of the Bank, where she remained three or four days. This vessel was, on the 31st ultimo, entered outward by Colin S. Caird, for Point de Galle and Hong-Kong, with a crew of forty-eight men. On the 1st instant she shipped the under-mentioned bonded stores, which were sent from Liverpool, viz: 115 gallons of spirits, 32 gallons of wine, 244 pounds of tea, 590 pounds of coffee, 212 pounds of tobacco, 10 pounds cigars, 18 cwt. 3 quarters 2 pounds of sugar, 2 cwt. 2 quarters 8 pounds of molasses, 2 cwt. 1 quarter 5 pounds of raisins, and 1 cwt. 1 quarter 8 pounds of currants; and cleared the same day in ballast for Point de Galle and Hong-Kong.

It appears she left the anchorage at the Tail of the Bank early on the morning of the 2d instant, with the ostensible purpose of trying her engines, intending to return, having on board several joiners who were fitting up her cabins, and I am informed that [122] after she left this the joiners were employed in *fitting up a magazine on board, and were subsequently landed on some part of the coast lower down the Clyde.

It is reported that she did not take her final departure until the 6th or 7th instant; but I cannot ascertain where she went after leaving this anchorage.

I have questioned the officer who performs tide-surveyor's duty afloat, and who visited her, on the evening of the 1st instant, to see that the stores were correct. He informs me he saw nothing on board which could lead him to suspect that she was intended for war purposes. I can testify that she was not heavily sparred; indeed she could not spread more canvas than an ordinary merchant-steamer. I beg to add, when the tide-surveyor was on board, the joiners were fitting doors to the cabins.

I am, &c.,
(Signed) J. F. MOORE HODDER,
Collector.

The officer acting for the collector at Glasgow transmitted the subjoined report, made by the measuring surveyor at that port.[2] He added that the Japan had not cleared from Glasgow:

CUSTOM-HOUSE, *Glasgow, April* 10, 1863.

SIR: In compliance with your reference, I beg to report that an iron screw-steamer, called the Japan, was recently built by Messrs. W. Denny, Brothers, at Dumbarton.

I surveyed her on the 17th January last, and visited on two subsequent occasions for the purpose of completing my survey. She appeared to me to be intended for commercial purposes, her frame-work and plating being of the ordinary sizes for vessels of her class.

[1] Appendix, vol. i, p. 403. [2] Ibid., p. 404.

I annex a copy of my certificate of survey, which shows the vessel's tonnage and description, and beg to add that the formulæ and certificate of survey for the Japan were forwarded to Liverpool on the 2d ultimo, with a view to her being registered as a British ship.

Respectfully submitted.

(Signed) M. COSTELLO,
Measuring Surveyor.

FORM No. 1A. Steamer.

Certificate of survey.[1]

Name of ship.	British or foreign built.	Port of intended registry.	How propelled.
"Japan."	British.	Liverpool.	By a screw-propeller.

Number of decks	One and a poop.	Build	Clincher.
Number of masts	Two.	Galleries	None.
Rigged	Brig.	Head	Demi-woman.
Stern	Round.	Frame-work	Iron.

MEASUREMENTS.

	Feet.	Tenths.
Length from the fore part of stem under the bowsprit to the aft side of the head of the stern-post	219	00
Main breadth to outside plank	27	25
Depth in hold from tonnage-deck to ceiling at midships	14	75

Name and address of builder—W. Dennys, Brothers, Dumbarton.

TONNAGE.

	No. of tons.
Tonnage under tonnage-deck	554.54
Closed-in spaces above the tonnage-deck, if any; viz:	
Space or spaces between decks	
Poop	85.67
Round-house	
Other inclosed spaces, if any, naming them—store-room on deck	1.39
Excess of space appropriated to the crew above $\frac{2}{100}$ of the remaining tonnage	6.68
Total	648.28
Deduction for space required for propelling-power as measured	221.03
Register tonnage, (after making deduction for space for propelling-power in steamers)	427.25

Length of engine-room, 54 feet 3 tenths.
Number of engines, two.
Combined power, (estimated horse-power,) number of horses-power, 200 horses.
Name and address of engine-makers, Denny & Co., Dumbarton.

I, the undersigned Martin Costello, measuring surveyor for this port, having surveyed the above-named ship, hereby certify that the above particulars are true, and that the name and the port of registry are properly painted on a conspicuous part of her stern in manner directed by the merchant shipping act, 1854.

Dated at Glasgow, the 4th day of February, 1863.

(Signed) M. COSTELLO,
Surveyor.

It appears from these reports that the vessel, when surveyed by the measuring surveyor, presented nothing calculated to excite suspicion; that she had the appearance of being intended for commercial
[123] purposes, her frame-work and plating being such as are *ordinary in trading-vessels of her class; that she had been regularly entered outwards for Point de Galle and Hong-Kong, with a crew of

[1]Appendix, vol. i, p. 423.

forty-eight men, and that, on the 1st April, 1863, she had cleared for that destination in ballast.

It subsequently appeared further that she had, on the 20th of March, 1863, been registered as the property of a Mr. Thomas Bold, a merchant residing at Liverpool, on the declaration of Bold that he was the sole owner of her. It also appeared that she had been advertised at the Sailors' Home in Liverpool as about to sail for Singapore; that seamen were hired for her at Liverpool as for a ship bound for that port; and that all her crew so hired signed articles for a voyage to Singapore, or any intermediate port, for a period of two years, and that the men believed that this was the real destination of the ship. She took her crew on board while lying in the Clyde, off the port of Greenock, and on the 2d of April she sailed.

With respect to the Alar, the small steamer stated by Mr. Adams in his note of the 8th to have conveyed men and munitions of war to the Japan, the commissioners of customs had, before the date of that note, received from their collector at Newhaven the following report, which they had forwarded to the treasury:[1]

Mr. Dolan to the commissioners of customs.

CUSTOM-HOUSE, *Newhaven, April* 6, 1863.

HONORABLE SIRS: The steamship Alar, of London, 85 tons, owned by H. P. Maples, sailed on Sunday morning, 5th instant, at 2 a. m., bound, according to the ship's papers, viz, the accompanying content, for Alderney and St. Malo. On Saturday, at midnight, thirty men, twenty of whom appeared to be British sailors, ten mechanics, arrived by train. Three gentlemen accompanied them, Mr. Lewis, of Alderney, Mr. Ward, and Mr. Jones. The men appeared to be ignorant of their precise destination; some said they were to get £20 each for the trip. A man, rather lame, superintended them. Shortly after midnight a man arrived from Brighton on horseback, with a telegram, which, for purposes of secrecy, had been sent there and not to Newhaven, it is suspected. Mr. Staniforth, the agent, replied to my inquiries this morning that the Alar had munitions of war on board, and that they were consigned by ——— ———[2] to a Mr. Lewis, of Alderney. His answers were brief, and with reserve, leaving no doubt on my mind nor on the minds of any here that the thirty men and munitions of war are destined for transfer at sea to some second Alabama. The private telegram to Brighton intimated, very probably, having been reserved for the last hour, where that vessel would be found. Whether the shipment of the men, who all appeared to be British subjects, can, if it should be hereafter proved that they have been transferred to a Federal or confederate vessel, be held as an infringement of the foreign-enlistment act, and whether the clearance of the Alar, if hereafter proved to be untrue, can render the master amenable under the customs consolidation act, is for your consideration respectfully submitted.

(Signed) R. J. DOLAN, *Collector.*

No. 7. *Content.*

Port of Newhaven, ——— ———, pilot.

Ship's name and destination.	Tonnage and number of guns.		If British, port of registry; if foreign, the country.	Number of crew.	Name of master.	Number of passengers or troops.
	Tons.	Guns.				
"Alar," Alderney and St. Malo.	85	.....	British ship, London.	16	Jos. Back.	.....

[1] Appendix, vol. i, p. 405.

[2] Blank in the original.

Warehoused and transshipment goods.				Drawback and restricted goods.			
Marks.	Numbers.	Number and description of packages.	Remarks.	Marks.	Numbers.	Number and description of packages.	Remarks.

British goods and foreign goods free of duty, and foreign goods not for drawback:

Sundry free goods.

Examined.

(Signed) W. S. FLINT, *Examining Officer.*

G. W. STANIFORTH, *Broker.*

Cleared, dated April 4.

I do declare that the above content is a true account of all goods shipped or intended to be shipped on board the above-named ship, and correct in all other particulars, and that all the requirements of the act 17 and 18 Vict., cap. 104, have been duly complied with.

(Signed) JOS. BACK, *Master.*

Signed and declared, this 4th day of April, before me.

(Signed) W. K. STAVELEY, *Collector.*

[124] *When this report was received no information respecting the vessel then known as the Japan had reached the commissioners of customs or the government, and on this point no information was or could be conveyed in the report, since none was possessed by the collector at Newhaven.

On the 11th April, 1863, the following statement appeared in the second edition of the Times newspaper:[1]

PLYMOUTH, *Saturday Morning.*

The steamship Alar, Captain Back, of and from Newhaven, for St. Malo, put in here this morning, and landed seventeen men belonging to the steamship Japan, Captain Jones, 600 tons, which left Greenock on the 28th March for a trading voyage in the Chinese seas. On arrival off the coast of France she lay to for three days, it is supposed to take in more cargo. On the 4th April, at 11 a. m., one of the condensers of the steam-engines, which are about 200 horse-power, exploded, and two firemen in the stokehole were scalded, viz, Alexander McDuff, of Edinburgh, and William Hamilton, of Downpatrick, seriously; they were taken immediately into the captain's cabin, transferred to the Alar on the 9th, and are now in the Devon and Cornwall hospital here. The other fifteen are seamen and firemen, who took advantage of the proximity of the Alar, and are said to have "backed out of the voyage to China." They left by train this morning for Liverpool, Portsmouth, &c. The Japan, which had a complement of eighty men, has proceeded. The Alar had to lay to in the Channel on Thursday and Friday, in consequence of some trifling damages.

Earl Russell, on observing this statement, gave orders that it should be immediately brought to the notice of the secretary of state for the home department, and the lords commissioners of the treasury. Afterward, and on the same day, at 5 p. m., he received from Mr. Adams the following note referring to it:[2]

[1] Appendix, vol. i, p. 402. [2] Ibid., p. 401.

Mr. Adams to Earl Russell.

LEGATION OF THE UNITED STATES,
London, April 11, 1863.

MY LORD: I have the honor to inclose to your lordship a slip extracted from the London Times of this day, touching the case of the vessel now called the Japan, but named at Greenock lately the Virginia. It is needless to add that the statement therein made of the destination of the vessel is known to me to be false. I have reason to believe that she has not gone. The steamer Alar has already transferred to her one 56-pounder gun and four smaller ones, and is expected to return to her.

I pray, &c.,
(Signed) CHARLES FRANCIS ADAMS.

Copies of this note were immediately sent to the home department and the treasury, with a request that it should receive immediate attention, and that those departments would take such steps as might be legally in their power to prevent a violation of the law.

On the same evening, at 7.40 p. m., orders were sent by telegraph to the collector of customs at Plymouth to make inquiry about the Alar; and at 11.40 p. m. an answer was received from him to the effect that she had arrived that morning, and that the collector had taken the master's statement, and had forwarded it to the board of customs.

The statement so forwarded, and the collector's letter inclosing it, were as follows:[1]

Mr. Browne to the commissioners of customs.

CUSTOM-HOUSE, *Plymouth, April* 11, 1863.

HONORABLE SIRS: I beg to submit, for your honors' information, the inclosed statement of the master of the steamer Alar, of London, to which he has affixed his signature. He states that his vessel is a regular trader between Newhaven and the Channel Islands.

Respectfully, &c.,
(Signed) N. E. BROWNE.

Statement of Mr. Back, master of the screw-steamer Alar.

I cleared from Newhaven on the 4th April for Alderney and St. Malo, in ballast, and sailed from thence on Sunday the 5th, having on board about thirty passengers, of whom about six were in the cabin, and a quantity of packages, which I supposed contained provisions and passengers' baggage. Before leaving a principal party was pointed out to me by the owner of my ship, and I was informed by him that the provisions belonged to this party, and that I was to obey his instructions.

On Sunday, about 3 p. m., my engine broke down, owing to the bursting of the feed-pipe, and I was compelled to rake out fires, and blow off steam; the engineer repaired damage, and after about seven or eight hours' delay I proceeded on my voyage.

[125] Broke down again on Monday morning, from some cause, and proceeded, after repairs and similar delay. Laying-to on Tuesday afternoon and night, weather very thick, and blowing from westward.

On Wednesday, about 11 a. m., saw a steamship a long way off to the westward, with signal flying, but I know not what colors. The passenger before mentioned asked me to bear down to the ship, which I did; but before reaching her, my engine broke down again, when the steamer came up to me, and took my vessel in tow. The steamer towed me toward the coast of France, in order that I might get shelter to effect repairs. She towed me for about an hour, then the rope parted; and in coming back to fetch me again, the tow-rope got foul of the large steamer's propeller, and caused her to fall down upon us, damaging our stanchions, and carrying away our bowsprit.

The passenger before mentioned then asked me to transfer the provisions and baggage to the large steamer, which was done, by about twenty of the passengers, who also went on board the steamer, where they remained. I was then asked by a person in authority on board the large steamer, if I would take two men who had been badly scalded to any port where there was an hospital, which I consented to do, and they, with about nine or ten others, and the person who had spoken to me about the sick men, came on board my vessel; and I at once proceeded for the first English port I could make that had an hospital.

[1] Appendix, vol. i, p. 408.

I parted with the large steamer on Thursday afternoon. On the afternoon of Friday we again broke down, and were delayed about the same time as before. About 2 a. m. on Saturday the 11th, we sighted the Eddystone, and bore up for Plymouth, which we reached about 4.30 a. m., when we landed the person we had taken with us from Newhaven—the person who spoke to us on board the steamer—about one dozen men, including the men from the steamer, and the two sick men for the hospital. I heard the large steamer was called the Japan, but I did not see her name on her stern, as I had enough to do to attend to my own ship.

(Signed) J. F. BACK, *Master of the Alar.*

CUSTOM-HOUSE, *Plymouth, April* 11, 1863.

(Signed) N. E. BROWN, *Collector.*

On the 16th April, Earl Russell received from Mr. Adams a note inclosing two depositions purporting to be made by seamen who had shipped in the Japan at Greenock, as part of her crew, and had since returned to Liverpool. The note and copies of depositions were as follows:[1]

Mr. Adams to Earl Russell.

LEGATION OF THE UNITED STATES,
London, April 15, 1863.

MY LORD: I have the honor to transmit copies of two depositions of British subjects, who appear to have been solicited to engage in the unlawful expedition of the Japan, *alias* the Virginia, against the commerce of the United States. I append a list of the officers and men, subjects of Great Britain, shipped at the Sailors' Home in Liverpool, a large part of whom have been induced to join the piratical expedition. Likewise a list of the men who refused to enlist, left the Virginia, and returned to Liverpool.

It is not without great pain that I feel it my duty to point out to your lordship these transactions at Liverpool, and the extent to which, if not in some way prevented, they are calculated to give rise to complaints in the United States of the violations of neutrality deliberately committed by Her Majesty's subjects in the port of Liverpool.

I pray, &c.,

(Signed) CHARLES FRANCIS ADAMS.

Deposition of Edward Thompson.

Edward Thompson, of No. 18 Denison street, in Liverpool, makes oath and says: I am an able seaman, and served for five years in a man-of-war, on Her Majesty's ship Neptune and others. I was shipped from Liverpool to Greenock to join the steamer Japan, as I was told, bound on a voyage to Singapore. She was advertised in Sailors' Home as bound for this port. I belong to the royal naval reserve. We sailed from Greenock on the 2d day of April instant. Captain Hitchcock was in command. We sailed first down toward the Isle of Man. We then tacked and went north through the North Channel and down the west coast of Ireland, passed Cape Clear, and steered east up the Channel. Ushant light was the first light we sighted; went toward St. Malo. We then put her to the westward, and dodged at slow steam all night. We fell in with the Alar steamer just off Morleux; we were not more than three or four miles from land at the time. When the Alar saw us she hoisted a flag for a pilot; after she got her pilot on she hoisted a flag of distress. We had taken her in tow before the pilot reached us. We floated about until night, then got the Alar alongside, and commenced to discharge the cargo into the Japan. We were three nights engaged in discharging the cargo; we did nothing in the day-time. She brought to us guns, shot, shell, rockets, ammunition, rifles, cutlasses, and all sorts of implements of war. I counted nine Whitworth guns to be mounted on the decks. I may be mistaken about the maker's name. I only know they were breech-loading guns. I understood there was one large pivot-gun on board when we left Greenock. I left the vessel on Friday last, in the steamer Alar. After we got all the cargo discharged from the Alar into the Japan, at 4 o'clock on Friday afternoon, while we were off Brest, about two miles from land, the new captain who came to us in the Alar, having dressed himself in regimentals, in a blue uniform with a star in the epaulets, had all hands piped aft by the boatswain. He then directed the lieutenant to read the articles, and then said, "We are not bound for Singapore; we are going to sail under the confederate flag, the [126] same as the *Alabama, to sink, burn, and destroy vssels belonging to the United States. All of you who wish to join, I will give £10 in cash as soon as you sign the articles, and you who do not wish to join can go back in the Alar. Those who join

[1] Appendix, vol. i, p. 412.

shall also have £1 per month extra." The captain told us her name was to be the Virginia, and this was the name mentioned in the articles which we were required to sign. They had the confederate flag on board at the time laid down on the floor of the cabin, but it was not hoisted. The articles were for three years, or during the war with the United States. During the night, while we were discharging the cargo from one vessel to the other, we were at anchor very close into the land; not more than half a mile from the land, opposite a magazine which lies a quarter of a mile from Ushant light. We went to this place, or very near there, every night. After reading the articles, the men who refused to sign asked about their wages. They were told that Captain Hitchcock would settle this after we arrived at Liverpool. I saw Mr. Hitchcock yesterday at Jones & Co.'s office, No 28 Chapel street, Liverpool. This house of Jones & Co. acted as agents for shipping the men. One of their clerks was at the steamer which took us around from Liverpool to Greenock. They signed all the shipping notes; at least, they were all made payable there at Jones & Co.'s offices, and they have paid them since. They paid me my shipping note yesterday at their office in Liverpool. There were ten sailors lately belonging to the British navy from Portsmouth, who came out in the Alar, but refused to join the vessel. They received £2 apiece from Captain Hitchcock not to say anything about the matter. This was paid them while we were returning to Plymouth. Mr. Jones, one of the firm in Chapel street, Liverpool, who came out to us in the Alar, was present at the time when the money was paid, and ordered Captain Hitchcock to pay it to the men. Mr. Jones seemed to [take] charge of everything. The report was that she, the Virginia, was to go to Madeira. She had not more than five days' coal when we left her. She is an iron vessel, very slightly built, with a full poop as far as the after scuttle-hole to fire-room and top-gallant forecastle. Three masts, square rigged forward; fore and aft main and mizzen. She has one funnel between the fore and main mast; a house over engine-room, with a donkey-engine in it. The Alar is a British steamer hailing from London. When she came out to meet the Japan, or Virginia as she is called, she sailed from Newhaven.

(Signed) EDWARD THOMPSON.

Sworn before me at Liverpool this 14th day of April, 1863.

(Signed) J. PEARSON,

A Commissioner to Administer Oaths in Chancery in England.

Deposition of Thomas Mahon.

Thomas Mahon, residing at No. 8 Court, Gore street, Toxteth Park, Liverpool, being sworn, says:

I am a native of Liverpool, and am a laborer. On or about the 27th day of March last past, hearing that a steamer was wanting men for Singapore, I went to the Sailors' Home in Liverpool, and was introduced to a man as the captain. I don't remember his name at present; I believe it is Hitchcock. He is in Liverpool now. He told me he was captain of the Japan. He said he wanted firemen and trimmers, and the next day, the 27th, I went with him to the shipping-office, and there signed articles for steamer Japan for Singapore, or any intermediate port, for two years. Captain Hitchcock engaged me, and witnessed my signing. I was to have £3 10*s.* per month. About fifty men in all signed in the same way. When we had signed, we were told to take our clothes to Jones & Co.'s, No. 28 Chapel street, and would then receive an advance note for a month's pay. I took my clothes there, and received a note for £3 10*s.*, payable ten days after the ship sailed from Greenock. At Jones & Co.'s we were told by the Captain Hitchcock to meet at the Glasgow boat at 5 o'clock on Monday afternoon at the dock. We went as ordered, and our clothes were brought down, and our fares were paid by a clerk from Jones & Co. We sailed the same evening in the Heron, about fifty in all. We arrived at Greenock about 3 or 4 the next afternoon, and a tug came alongside and took us off the Heron and put us on board the screw-steamer Japan, lying in the river opposite Greenock. Captain Hitchcock came off in the tug and took us on board. He went on board with us; he gave us our orders. I had shipped as coal-trimmer, and believed she was an English steamer, and going to Singapore. She had then the English ensign flying. Captain Hitchcock remained on board and exercised command. We remained at Greenock till Wednesday. On Thursday, about 6 in the morning, when we got under way, the pilot said we were going on a trial trip. On the Wednesday night the revenue officers came on board, after the stores came on board, and put seals on the stores. The stores came off in a steamer and a lighter. They consisted of large quantities of spirits, clothing, blankets, beds, knives and forks, tins, and the like. I did not see any other government officers visit the ship. We sailed out, I believe, on the Thursday morning, as we supposed on the trial trip, and steered toward sea. In the afternoon we returned to the light-house down the Clyde and stopped, but did not anchor. A tug came to us there with some more men and provisions from Greenock, and as soon as we had taken them on board we started down again and steered right to sea. The pilot left us next morning off Castletown, Isle of

Man. Captain Hitchcock had command of the vessel. About two days after we made land, as I was told, on the coast of France, and we kept beating about there for several days. We wondered why, but did not ascertain the reason.

On Monday, the 6th, an English screw-steamer, the Alar, of London, came to us and spoke us. We were so near the coast of France that a shot could be fired ashore. Captain Hitchcock told the Alar to go under the island. The Alar soon after made a signal as if she was broke down, and the Japan took her in tow. We towed her awhile and the hawser broke. She then steamed away herself, and we soon after spoke a French pilot-boat and we took a pilot on board, as did also the Alar. The Alar sailed away into a small bay and we followed, and came to an anchor near the shore, no further off than I could have thrown a stone. The Alar then made fast alongside, and that night a very large case of guns and a quantity of ammunition in small cases were taken on board the Japan from the Alar. The next morning both vessels sailed [127] out and we went out to sea, and the Alar into another bay. In *the afternoon we joined the Alar in the other bay, and took on board the rest of her cargo, consisting of guns and ammunition. Men in the mean time were engaged making the fittings for the guns. The same afternoon a tall man they called Lamont or Dupont came on board from the Alar and took charge of the Japan. He came on deck in uniform and called all the men aft. He told us she was no more to be called the Japan, but the Virginia, confederate war-steamer. He produced articles; and reading them to the effect that there would be discipline same as the Alabama or any other under the confederate flag, he said he was going to burn and destroy all North American vessels, and told us we should have £10 bounty to sign for three years under the confederate flag. One of the men asked about prize-money, and he said we should have the same as the Alabama; that any man who had a family could have half-pay. Eight of us went into the cabin to see what he would do with us if we would not ship. He said Mr. Jones would pay our fare through to Liverpool, and anything else that we required when we came ashore. Mr. Jones was sitting at the table where they were paying the bounty and signing the articles, and said it would be all right. We and a number of others, in all about twenty-four, refused to join, and the same night we were taken to the Alar and both vessels left the bay. The next morning the Alar took the pilot from the Japan and landed him and her own about where we had picked them up. I was below when she took the pilot off, and did not see the Japan after leaving her in the bay. I heard the order given to hoist the confederate flag. Captain Hitchcock, Mr. Jones, and the chief and second mates came from her with us. We were landed at Plymouth on Saturday morning, and received from Captain Hitchcock a sovereign each to pay our way to Liverpool, and the same day came in to Liverpool in the steamer.

(Signed) THOMAS MAHON.

Sworn the 14th day of April, 1863, before me,

(Signed) WM. RATHBONE,
A Magistrate for the County of Lancaster.

Mr. Adams also inclosed the two lists mentioned in his note. In the "list of officers and men," the only officers mentioned were the master, first mate, second mate, store-keeper, and boatswain. All of these, except the boatswain, were stated to have returned in the Alar, together with many others of the original crew of the Japan.

On the same 16th April, 1863, Earl Russell received from Her Britannic Majesty's consul at Brest a report, dated the 13th April, which was as follows:[1]

Consul Sir A. Perrier to Earl Russell.

BREST, *April* 13, 1863.

MY LORD: I have the honor to report to your lordship that I have received the following letter from Conquet:

"CONQUET, *April* 10, 1863.

"SIR: I have the honor to inform you that on the 7th of this month two English vessels, a brig and a steam-schooner, were seen in the Fromveur, (a passage between Ushant and the main-land,) with a signal for a pilot. Piton and Marec, pilots of Molène, went on board. The names given to them were, Japan of Liverpool, for the brig, and Alar of London, for the schooner, which was bound from Emzic to Liverpool with a general cargo. This vessel having sprung a leak, had requested the brig to stay by until all danger was over. After beating about all day they anchored in Bertheaume Bay, about 6 in the evening, where they tried to transship part of the cargo from the

[1] Appendix, vol. i, p. 416.

schooner to the brig, but a heavy surf prevented their doing so. The pilots offered to bring the vessels into Brest, which was refused. Next morning, the 8th, they got under way at about 6 in the morning, went through Conquet Channel, and anchored in Stiff Bay, under Ushant, where the transshipment was effected that evening. They then sailed for Liverpool."

I called upon the vice-admiral, commander-in-chief, to know if he had received any account of this affair from Conquet. He replied that he had not yet received the official report, but that he had been informed of all that I had stated, and also that the schooner had struck on a rock in Stiff Bay, and that the cries of her crew had been heard at the light-house on Ushant. Suspecting that this transshipment might be of war contraband goods for America, he has demanded a full report from the commissary of marine at Conquet, and will communicate it to me.

I have, &c.,
(Signed) ANTHY. PERRIER.

A somewhat more detailed statement of the incidents described in the foregoing report has been recently furnished to Her Majesty's government by Her Majesty's consul at Brest. This statement is as follows:[1]

Consul Clipperton to Earl Granville.

BREST, *September* 9, 1871.

MY LORD: I have the honor to acknowledge the receipt of a dispatch from the foreign office marked separate, and dated 31st August last, instructing me to [128] report to your lordship all the information I * can obtain respecting the equipment of the confederate cruiser Georgia, then known as the Japan or Virginia, off Morlaix, and the visit of that vessel to Brest between the 4th and 9th of April, 1863, and to forward with my report a small map or chart of the coast, explanatory of the proceedings which took place within or contiguous to the limits of French jurisdiction.

In reply, I beg most respectfully to inform your lordship that at Morlaix nothing is known of the confederate cruiser Georgia, either under the name of Japan or Virginia, but the matter appears to have transpired near to Conquet, marked (A) on the accompanying chart, and was as follows:

On the 9th April morning, 1863, two English vessels, a brig and steam-schooner, were seen in the Fromveur Channel between Ushant and the main-land, (B,) making signals for a pilot. Two pilots of Molène, named Piton and Marec, went on board. They were told that the vessels were the brig Japan of Liverpool, and schooner Alar of London, bound for Liverpool, with a general cargo.

The Alar was represented to have sprung a leak, and had requested the brig to stand by her to render assistance if required. At about 6 in the evening of the same day the two vessels anchored in Bertheaume Bay, (C,) and efforts were made unsuccessfully, owing to a heavy surf, to transship part of the cargo from the schooner to the brig. The pilots proposed to take the vessels into Brest, but were refused. The two vessels got under way at 6 a. m. of the following day, the 8th, passed through the Conquet Channel, and anchored in Stiff Bay, (D,) under Ushant, where the transshipment was effected, and that same evening they sailed for Liverpool.

The official reports made to the admiral of the port of Brest by the French naval agent at Ushant, and the custom-house officer at Conquet, state that the schooner was sighted before the brig, and that both were seen hovering about for two or three days; they were both seen close alongside of each other, the schooner apparently discharging, or trying to discharge, cargo into the brig. After anchoring in Stiff Bay the transshipment was actively carried on until between 7 and 8 in the evening, at about which hour the brig went to sea.

At about 10 o'clock of the same night cries and noise of putting out boats were heard at the light-house, as if proceeding from the schooner. It is supposed that the schooner foundered, and that the boats went out to sea, as nothing further was ever heard of either vessel or crew.

I beg further to inform your lordship that two steam-vessels were constructed and partly fitted out at Nantes, during the war in America, for the Confederate States. On my return to my post I shall be in a position to forward all the information connected with them, should your lordship consider it expedient for me to do so.

I have, &c.,
(Signed) ROBT. CHAS. CLIPPERTON.

The places called Conquet and Bertheaume Bay, and mentioned in the two preceding reports, are on the coast of France, in the depart-

[1] Appendix, vol. i, p. 416.

ment of Finistère. The Baie du Stiff, or Stiff Bay, is on the coast of the French island of Ouessant, or Ushant.

From the statements contained in the preceding depositions and reports, it appears that the vessel afterward called the Georgia sailed from Greenock under the name of the Japan, as a merchant-vessel, on a trading voyage to the East Indies, and that until she arrived off the coast of France her crew were not aware that this was not her true character and destination; that she was armed for war in French waters; and that she there took on board her commander and officers, who then and there enlisted a crew.

With reference to Mr. Adams's note of the 15th April, 1863, the following letter was on the 21st April addressed to him by Earl Russell:

Earl Russell to Mr. Adams.[1]

FOREIGN OFFICE, *April* 21, 1863.

SIR: I stated to you in my letter of the 16th instant, that your letter of the previous day, respecting the case of the Japan, otherwise the Virginia, had been referred to the proper departments of Her Majesty's government, but I will not delay informing you that Her Majesty's government have received from the authorities at Glasgow and at Greenock reports, from which it appears that that vessel was constantly visited while she was in course of construction, and that the surveys seemed to show that she was intended for commercial purposes, and that her frame-work and plating were of the ordinary sizes for vessels of her class.

She was entered on the 31st ultimo, as for Point de Galle and Hong-Kong, with a crew of forty-eight men. She shipped on the 1st instant the bonded stores stated in the margin,[2] and she cleared on the same day in ballast for Point de Galle and Hong-Kong.

Her Majesty's government are further informed that the Japan left the anchorage early on the morning of the 2d instant, with the ostensible purpose of trying her engines, intending to return, having on board several joiners, who were fitting up her cabins. These men, who are said to have been employed at a later time in fitting up a magazine, were subsequently landed on some part of the coast lower down the Clyde.

The custom-house officer who visited the Japan on the evening of the 1st instant to see that her stores were correct, reports that he saw nothing on board which
[129] could lead him to suspect that she was *intended for war purposes. Her Majesty's government are further informed that she was not heavily sparred, and that she could not spread more canvas than an ordinary merchant-steamer.

I am, &c.,
(Signed) RUSSELL.

On the question whether persons who had joined the vessel, or who had induced others to join her, could be prosecuted as offenders against British law, the law-officers, on the 30th April, 1863, advised as follows:[3]

In our opinion it is not competent to Her Majesty's government at present to take any steps in the matter to which Mr. Adams's dispatch of the 15th April refers.

So far as relates to British seamen who have accepted the proposal made to them in French waters to engage in the belligerent service of the Confederate States, we think that they have offended against the 2d section of the foreign-enlistment act, and will be liable to be proceeded against for a misdemeanor if they should be found within British jurisdiction; the first part of that section (which applies to the persons entering into such engagements) being in the form of an absolute prohibition, applicable generally to British subjects, without reference to the place where the act prohibited may be done. But, inasmuch as these seamen are not at present within British jurisdiction, no steps can now be taken for their prosecution.

With respect to the seamen who have returned to this country, it seems clear that their conduct has been laudable, and not criminal. They were induced, by false and fraudulent representations, to enter into engagements at Liverpool for a perfectly law-

[1] Appendix, vol. i, p. 418.

[2] One hundred and fifteen gallons spirits, 32 gallons wine, 244 pounds tea, 159 pounds coffee, 212 pounds tobacco, 10 pounds cigars, 18 cwt. 3 quarters 2 pounds of sugar, 2 cwt. 2 quarters 8 pounds molasses, 2 cwt. 1 quarter 5 pounds raisins, 1 cwt. 1 quarter 8 pounds currants.

[3] Appendix, vol. i, p. 419.

ful voyage, and afterward, when apprised of the deception which had been practiced upon them, and invited to enter an engagement of a different character, they refused to do so.

With respect to Captain Hitchcock, and any other persons who may have been instrumental in inducing the crew of the Japan to take service in her before her departure from this country, it is clear that (howsoever censurable their conduct may have been) they did nothing contrary to the foreign-enlistment act; for it was not until the ship was in French waters that any proposal appears to have been made to any of the men to enter into the belligerent service of the confederate government, and the latter part of the 1st section of the foreign-enlistment act (which applies to the case of persons "hiring, retaining, engaging, or procuring" others to enter into the belligerent service of a foreign state) is expressly limited to acts done within the territorial jurisdiction of the British Crown.

On the 8th July, 1863, Earl Russell received from Mr. Adams a note, in which, referring to the Georgia, and stating (as the fact was) that his former representations concerning that vessel had unhappily been made too late for Her Majesty's government to interpose effectively, he called Earl Russell's attention to the circumstance that she had been, and until recently was, registered in the name of a British subject. The portion of the note in which reference was made to this matter was as follows:

Mr. Adams to Earl Russell.[1]

[Extract.]

JULY 7, 1863.

It is with great regret that I feel myself once more compelled to call your lordship's attention to the circumstances attending the outfit of the steamer called the Japan. It now appears that that vessel was, at the time of her escape, and has continued until very lately to be, the property of a British subject residing in Liverpool. That person is Thomas Bold, a member of the commercial house of Jones & Co. I have information which leads me to believe that only within a few days has Mr. Bold notified the collector of customs at Liverpool of his sale of this vessel to foreign owners, and requested the register to be canceled. That act was not completed until the 23d of June last. It would appear from these facts, should they prove to be true, that this vessel has remained the property of a British subject during a considerable time in which she has been engaged in committing extensive ravages upon the commerce of a nation with which Her Majesty is at peace. The fact of the outfit of that vessel for hostile purposes has already occupied the attention of your lordship, in consequence of former representations, unhappily made too late for effective interposition. But the circumstances of the retention of the ownership by a British subject for so long a period after she was known to be engaged in hostilities against the United States, is of too grave a character to justify me in omitting to call your lordship's particular attention to it, in advance of the possibility of receiving instructions respecting it.

On inquiry it appeared that the certificate of registry of the steamer Japan, which had on the 20th March been issued to Bold by the collector of customs at Liverpool, had on the 23d June, 1863, been delivered up by Bold to the collector, with the following letter:[2]

[130] **Mr. Bold to Mr. Edwards.*

LIVERPOOL, *June* 23, 1863.

SIR: I beg to hand you the certificate of registry of the screw-steamer Japan, official No. 45868, port No. 93, as I have conveyed the vessel to an alien.

I am, &c.,
(Signed) THOMAS BOLD.

The circumstance that Bold's name had, on his own declaration, been entered on the register-book as the owner of the vessel, and had continued to be so registered till the 23d June, did not render him responsible for acts done during the interval by the persons who had the actual possession and control of her, unless it could be proved that he was himself a party to such acts, of which there was no evidence. Nor could he have been

[1] Appendix, vol. i, p. 419. [2] Ibid., p. 421.

prosecuted under the foreign-enlistment act for participating in an unlawful equipment of the ship, on proof merely that he was the registered owner, and without any evidence to show that he had been actually concerned in so equipping her within Her Majesty's dominions. Of this again there was no evidence. No proceedings, therefore, were or could have been taken against Bold. From a dispatch addressed by the United States consul at Liverpool to Mr. Seward, dated 7th August, 1863, it appears that the consul had in the preceding July consulted the legal adviser who had been employed by him in the matter of the Alabama (Mr. Squarey) on this subject, and Mr. Squarey advised as follows:[1]

Mr. Squarey to Mr. Dudley.

[Extract.]

10 WATER STREET, 1863.

It does not appear to me the engagement of the crew can be treated as an offense against the act, because the only legal contract binding upon the crew was that appearing upon the articles. The men were not liable to do anything except what they had agreed to do by the articles; and from the statements of the men whom I saw it did not appear that they knew when they shipped that it was expected or intended that they should serve on board a man-of-war or privateer. As regards the liability of the British registered owner to make good to the owners of the American vessel destroyed the loss sustained by them, I conceive it must depend upon the question whether those in command of the vessel at the time can be considered to have been the agents of the British owner. If they were such agents, and there was any evidence to show that the destruction of the American ship could be considered as an act within the scope of their authority, I have no doubt that the owners would be liable; but it appears to me that the circumstances to which I have previously referred go very far to rebut the presumption that such agency existed, and to prove that in destroying the American vessel the officers and crew were acting, not for the British owner, but for the government of the so-called Confederate States. In such case I do not think that any liability could be established against the British owner; for it is now well established that the mere fact of being on the register of the ship does not involve liability for the acts or engagements of the master and crew, and that such liability is, in fact, a question depending upon express or implied agency in every case.

Although, therefore, I do not see how a British owner is to be made liable, there is, in my opinion, a case which justifies the American Government in bringing the matter before the notice of the British government, and requiring explanations from that government of the circumstances under which a British vessel is found to be engaged in the destruction of vessels belonging to American citizens.

With reference to this part of the subject, it may be here stated that, in the month of January, 1864, a prosecution was commenced by the direction of Her Majesty's government against two persons, named Jones and Highatt, (who were admitted to be partners with Bold in the business of ship-store dealers and ship-chandlers, though not in that of ship-owners,) for having, within the Queen's dominions, hired and procured men to engage in the service of the Confederate States, by enlisting on board the Georgia. The case came on for trial at the Liverpool assizes in August, 1864, and the defendants were found guilty and sentenced to pay a fine. No evidence could be produced on the part of the prosecution to show that the men who shipped on board the vessel at Greenock had at that time, or when they were originally hired, any intention to enter the confederate service, although there was evidence that the defendants hired them with the intention of afterward inducing them to enlist in that service.

The Japan, after having been armed, was commissioned as a public ship of war of the Confederate States, under the command of a Lieutenant Maury, formerly an officer in the Navy of the United States, and under the name of the Georgia, by which name she was afterward known.

[1] Appendix, vol. i, p. 427.

[131] *In May, 1863, she was admitted into the harbor of Bahia, and coaled there; on the 16th August she arrived at Simon's Bay, in the colony of the Cape of Good Hope, and was allowed to repair and coal; and in October, 1863, she is believed to have touched at Teneriffe and coaled at that place. On or about the 28th October, 1863, she arrived in the roadstead of Cherbourg, and was shortly afterward admitted into the dock-yard for repairs. She was admitted as a man-of-war, on the order of the minister of marine, and her repairs (which were not extensive) were made by the dock-yard workmen, and are stated to have been paid for at the usual rate of work done on ships of war, which is less than the rate charged for work done on merchant-ships. She remained at Cherbourg during nearly four months. On the 25th March, 1864, she arrived at Pauillac, the boarding station of Bordeaux, and was reported as in want of repairs for her steam-machinery and of provisions. She was allowed to keep her gunpowder on board, on condition of mooring at Lormont, an anchorage a little distance below Bordeaux. Her machinery having been surveyed and certified to require a fortnight for its repair, she was given that time to remain at Lormont. She remained at anchor, however, until the 28th of April.[1]

While the Georgia was at Cherbourg, the Florida being at the same time in the harbor of Brest, it was ascertained that some seamen had been induced to go from Liverpool to France in order to join those vessels. Four of these men were identified, upon inquiry made by order of Her Majesty's government, as belonging to the royal naval reserve, and they were forthwith discharged from the force. One Campbell, a keeper of a sailors' boarding house at Liverpool, was found to have been concerned in inducing them to go, and was prosecuted and brought to trial and pleaded guilty. It was deemed sufficient by the judge to exact security against a repetition of the offense, by requiring him to enter into recognizances in the sum of £150 to appear for judgment when called upon.

On the 2d May, 1864, the Georgia came into the port of Liverpool. Very soon after her arrival there, her crew were discharged, her warlike stores were lodged in warehouses, (where they remained until after she left Liverpool, as hereinafter mentioned,) and the vessel herself was removed to a dock at Birkenhead, dismantled, and offered for sale by public advertisement in the following terms:

For sale, the splendid screw-steamer Georgia, about 750 tons, builder's measurement; built by Messrs. Denny, of Dumbarton, 1863; has engines of 200 horse-power; speed 12 knots; carries a large cargo; is abundantly found in stores, and ready for immediate employment. For specification and further particulars, apply to Curry, Kellock & Co.

The reason given for selling her was that she was deficient in strength and speed, and was, by her construction, unsuitable for a cruiser.

Directions had been given, shortly after her arrival, that, if not *bona fide* sold, she should be ordered to leave the port as soon as she had received necessary repairs.

With respect to the manner in which these directions should be enforced, and the power to enforce them, the law-officers of the Crown were consulted, and advised as follows:[2]

Opinion of the attorney and solicitor general.

If the Georgia is still (as has been hitherto assumed) a public ship of war of a belligerent power, she is, while within Her Majesty's dominions, exempt from all civil and municipal jurisdiction, and it is not, therefore, upon any civil or municipal law of this realm that Her Majesty's government can act, if they should find it necessary to take

[1] Appendix, vol. i, p. 442. [2] Ibid., p. 456.

any compulsory measures with respect to her; nor will the execution of those measures belong to the commissioners of the customs, or to any other civil authority.

By the universal law of nations, and by the prerogative right of regulating the intercourse between this country and the public ships of war of a foreign government, which belongs to Her Majesty in right of her crown, it is competent for Her Majesty to prohibit the entrance of any foreign public ship of war into Her Majesty's territory, except under such conditions as she may think proper from time to time to impose; and if any such prohibition is not duly obeyed, it is, in our opinion, perfectly within the competency of Her Majesty to enforce its observance by her military or naval officers, and by the use of force, if necessary.

If the Georgia has ceased to be a public ship of war of the Confederate States, and has been sold to and become the private property of any of Her Majesty's sub-
[132] jects, the case is different. Under these *circumstances, Her Majesty's orders would no longer be applicable to this ship; and, of course, no forcible or other means could be used for the purpose of compelling their observance in a case to which they would not apply. The Georgia, after such a sale, would be exactly in the same situation as the Gibraltar (formerly called the Sumter) was last year; she would be governed by the ordinary municipal law of this country, like any other private ship, the property of British subjects.

(Signed) ROUNDELL PALMER.
R. P. COLLIER.

LINCOLN'S INN, *May* 23, 1864.

The vessel was sold to Mr. Edward Bates, a ship-owner carrying on a very extensive business at Liverpool.

Mr. Adams, on being informed of the sale, wrote to Earl Russell, stating that, on behalf of his Government, he must decline to recognize the validity of it, and must claim the right to capture the vessel wherever she might be found on the high seas.

On the 27th July he again wrote to Earl Russell, suggesting that there was reason to suspect that the sale was fictitious, and the vessel intended to be again employed in the confederate service.

To this letter Earl Russell replied as follows:[1]

Earl Russell to Mr. Adams.

FOREIGN OFFICE, *August* 8, 1864.

SIR: With reference to my letter of the 28th ultimo, I have the honor to state to you that Her Majesty's government do not see sufficient grounds for coming to the conclusion upon the statements contained in your letter of the 27th ultimo, that the steamer Georgia is about to be again used for belligerent purposes. With a view, however, to prevent the recurrence of any question such as that which has arisen in the case of the Georgia, Her Majesty's government have given directions that, in future, no ship of war of either belligerent shall be allowed to be brought to any of Her Majesty's ports for the purpose of being dismantled or sold.

I am, &c.,
(Signed) RUSSELL.

The directions mentioned in the above letter were issued accordingly, and were notified in the London Gazette as follows:

Extract from the London Gazette of September 8, 1864.

FOREIGN OFFICE, *September* 8, 1864.

It is hereby notified that Her Majesty has been pleased to order, that for the future no ship of war belonging to either of the belligerent powers of North America shall be allowed to enter, or to remain, or be, in any of Her Majesty's ports for the purpose of being dismantled or sold; and Her Majesty has been pleased to give directions to the commissioners of Her Majesty's customs and to the governors of Her Majesty's colonies and foreign possessions to see that this order is properly carried into effect.

On the 8th August, 1863, the Georgia, being then registered in the name of the said Edward Bates, sailed from Liverpool for Lisbon. Off Lisbon, and while on the high seas, she was captured by the United States war-steamer Niagara, and was sent to Boston for adjudication.

[1] Appendix, vol. i, p. 459.

Mr. Bates, her owner, thereupon wrote to Earl Russell as follows, complaining of the seizure of his ship:

Mr. Bates to Earl Russell.[1]

LIVERPOOL, *August* 27, 1864.

MY LORD: I beg to call your lordship's attention to a very serious outrage which has been committed upon me by the United States man-of-war Niagara, in having forcibly seized and sent to the United States my screw-steamer Georgia.

This vessel was, in the month of May last, lying in the Birkenhead dock, and was offered for sale by public advertisement by the well-known ship-brokers, Messrs. Curry, Kellock & Co., of this town.

I had her examined, and, thinking her a suitable vessel, I entertained an intention to purchase her. I knew she was the property of the confederate government, and thereupon, before completing a purchase, I communicated with the custom-house authorities at Liverpool, in order to ascertain whether the authorities would grant me a British register, without which I should not have bought her.

The customs authorities took some time to consider, and during all this period
[133] the advertisement *continued in the public papers, and I have no doubt that this public announcement was seen and well known to the American consul at this port.

Eventually I was informed that a British register would be granted to me if I bought her. I concluded a purchase of her, and paid for her on the 13th June last. The purchase-money I paid to Messrs. Curry, Kellock & Co., and received a bill of sale signed by James D. Bullock. This document I presented at the custom-house, where I made the usual declaration of ownership, and the ship was thereupon duly registered in my name.

During the whole of this period she was in a public dock open to the inspection of the public, and where I dismantled her and proceeded to alter and repair her. All this time I did not receive any intimation from either my government or from the American consul or other authorities that my purchase was invalid.

In July I received overtures from Messrs. Bennett, of London, through Messrs. Meacock, of Liverpool, as brokers for the Portuguese consul in London, for a charter of the Georgia on time to the Portuguese government. I eventually accepted this charter, and then proceeded to fit her up in accordance therewith as a mail and passenger boat.

While she was being thus fitted up the Niagara visited the Mersey. The vessel was still open to inspection, and I have reason to believe that the officers of that vessel did inspect her, but no intimation was made to me of the intention to seize my property as soon as she should get into open waters.

So secure did I feel in the possession of my property, that, although the consul-general for Portugal conveyed to me his feeling of apprehension of the Niagara, I scouted the idea as something unworthy of credence, and on the 8th August she sailed from the Queen's dock in Liverpool for Lisbon, there to run in the service of the Portuguese government, from that place to the coast of Africa and back, with mails, goods, and passengers. On the completion of this service the Portuguese government covenanted and agreed to deliver my ship to me in the port of Liverpool.

Your lordship may therefore conceive the astonishment and indignation with which I received the intelligence on my return to Liverpool of the vessel having been seized off Lisbon by the United States steamer Niagara and sent to Boston.

I am well known in Liverpool as an extensive ship-owner.

I have no connection with the confederate government or their agents, and never have had, directly or indirectly.

I bought the vessel for the purpose of my own business, on an arrangement with the custom-house authorities that I should receive for her a British register, and in the belief that a British register would protect my property from the outrage which has been practiced upon me.

I respectfully submit these facts to your lordship's consideration, and trust that Her Majesty's government will forthwith take such steps as they may deem necessary in order to procure for me a restitution of my ship and compensation for the injury I have sustained.

I have, &c.,
(Signed) EDWARD BATES.

Mr. Bates was informed in reply that the question must go before a prize-court in the United States, and that he must be prepared to defend his interest therein. The view entertained of the case by Her

[1]Appendix, vol. i, p. 464.

Majesty's government was afterward more fully explained to him in the following letter:[1]

Mr. Hammond to Mr. Bates.

FOREIGN OFFICE, *September* 19, 1864.

SIR: I acquainted you shortly, by Lord Russell's direction, in my letter of the 9th instant, that the case of the Georgia must go before the prize-court in the United States, and that you must be prepared to defend your interest therein.

I am now further to acquaint you, in reply to your letter of the 27th ultimo, that having consulted the law-officers of the Crown, Lord Russell desires me to state to you that the Niagara, in capturing the Georgia and sending her into a prize-court for adjudication, which it is to be assumed will be the course she will pursue, has not exceeded the limits of her belligerent rights.

If the Georgia had formerly belonged to the mercantile marine of the Confederate States, and been the property of a private subject of the Confederate States, the United States cruiser would have been justified in seizing her upon the high seas, and in taking her into a prize-court for the purpose of submitting to proper judicial investigation the question whether the transfer of an enemy's vessel to a neutral *flagrante bello* had been *bona fide*, and executed in the manner and in the circumstances which international law requires. But it is a fact beyond the reach of controversy or denial that the Georgia had formed, till a very recent period, part of the confederate navy. The belligerent, therefore, had, *a fortiori*, the right to seize her and endeavor to obtain her condemnation in a prize-court. That court will have to determine, not only the question whether the transfer of the Georgia to a neutral owner was real, and accompanied by an entire extinction of all the interests and rights of the former hostile owner, but the much graver preliminary question whether (as against the right of capture of the other belligerent) a ship of war can be lawfully transferred by a belligerent *flagrante bello* in a neutral port to a neutral, with whatever publicity and however completely the transfer may have been actually made, and whatever alterations the structure, equipment, or employment of the vessel so *de facto* transferred may have undergone while in the possession of the neutral.

[134] *Lord Russell is further advised that the officers of the custom-house at Liverpool, in granting to this vessel, upon the production of proper documents, a British register, merely acted in conformity with the municipal laws of this country, which neither undertakes to assist and facilitate, nor pretends upon the high seas to overrule or supersede the right of maritime capture belonging to a belligerent under the law of nations as administered in prize-courts; and that it was certainly no part of the duty of Her Majesty's government to inform a private individual who might entertain the idea of purchasing this vessel of any risk which he might incur by so doing. Nor is Lord Russell aware of any obligation imposed by international law and comity upon the representatives or agents of the United States in this country, or upon the officers of the Niagara when at Liverpool, to give any notice or intimation whatever that the Niagara or any other cruiser of the United States might still consider the vessel a proper subject of capture, whether transferred or not to a neutral, and under whatever register or flag she might sail.

I am to add that the application contained in your letter of the 10th instant for documents in the case is now under consideration, and that an answer will be returned to you as soon as possible.

I am, &c.,
(Signed) E. HAMMOND.

SUMMARY.

The Georgia was a vessel built at Dumbarton, in Scotland, and sent to sea from the port of Greenock. For whom she was built and by whom and under what circumstances she was sent to sea are matters as to which Her Majesty's government has no information beyond what has appeared in the foregoing statement.

The Georgia neither appeared to be nor was, up to the time when she sailed from the port of Greenock, fitted out, armed, or equipped for war, nor especially adapted to warlike use. She appeared to be constructed and intended for a ship of commerce. She proved, in fact, to be not fitted for employment as a cruiser, and for this reason she was dismantled and sold after having been at sea for about nine months altogether, ex-

[1] Appendix, vol. i, p. 468.

clusive of the time during which she remained in the harbors of Cherbourg and Bordeaux.

She was registered under the name of the Japan, in the name of a Liverpool merchant, and was entered outward and cleared in the customary way for a port of destination in the East Indies. She was advertised at the Sailors' Home, in Liverpool, as about to sail for Singapore, and her crew were hired for a voyage to Singapore or some intermediate port, and for a period of two years. The men when they were hired believed this to be the true destination of the ship, and her voyage to be a commercial one, and they appear to have continued under this belief until after the vessel had arrived off the coast of France.

She was armed and equipped for war in the waters of France; she there took on board her commander and officers, and her crew were enlisted there; the crew who had shipped at Greenock having been released from their agreement and provided with the means of returning if they chose to do so.

Her officers and armament appear to have been conveyed to the French coast or its immediate vicinity, in a steamer which had cleared from Newhaven in ballast for Alderney and St. Malo, and which was stated to be a regular trader between Newhaven and the Channel Islands. The master of the steamer stated that the persons whom she conveyed were taken on board as passengers.

Her Britannic Majesty's government had no reasonable grounds to believe that the vessel was intended to cruise or carry on war against the United States until after she had departed from the waters of Great Britain and arrived in the waters of France. The government had indeed no knowledge or information whatever about her previous to the receipt by Earl Russell of Mr. Adams's note of 8th April, 1863.

Information about the construction and outfit of the vessel had for a long time before her departure been in the possession of Mr. Adams; and Mr. Dudley, who was (as it was his duty to be) in constant communication with Mr. Adams, knew of the hiring of seamen for her and had her examined by a man sent on board by him for that purpose. The information possessed by Mr. Adams was not, however, in his opinion, such that proceedings could be founded upon it; and no communication was made by him to Her Majesty's government on the subject until six days after the ship had sailed. At that time Mr. Adams had received further information (which proved to be erroneous) that the vessel was to receive her armament at Alderney, within the Queen's dominions, and he then made up his mind to "send notice of it to the British government, and leave it to them to act in the case as they might think fit." The vessel did not go to Alderney, and Mr. Adams's communication was (in his own words) "too late for effective interposition."

[135] *The Georgia, after having been armed for war in French waters, was commanded by an officer commissioned as such by the government of the Confederate States. Her officers were, as Her Majesty's government believes, Americans belonging to those States. Of the composition of her crew, Her Majesty's government knows nothing, except that it appears to have consisted, in part at any rate, of British subjects, who were induced by the persuasion and promises of her commander to take service in her while she was in French waters.

The Georgia was received as a ship of war of the Confederate States in the neutral ports visited by her, particularly in those of Brazil and France. On the same footing, and in the same manner, without favor

or partiality, she was received in a port of the colony of the Cape of Good Hope, and in a port within the United Kingdom.

After having been disarmed, dismantled, and sold in a British port, the Georgia was captured at sea by a United States cruiser, as having been a ship of the Confederate States, and incapable of being transferred, during the war, to a British subject. Her Britannic Majesty's government, while it saw no reason to doubt that the sale had been *bona fide*, did not dispute the right of the United States to capture the vessel for the purpose of submitting the validity of the transfer to the judgment of a prize-court.

During the cruise of the Georgia, which lasted (as stated above) about nine months, exclusive of the period of her stay in the harbor of Cherbourg, no serious endeavor to intercept or capture her appears to have been made on the part of the Government of the United States.

Her Britannic Majesty's government cannot admit that, in respect of the Georgia, it is justly chargeable with any failure of international duty, for which Great Britain owes reparation to the United States.