

their neutrality by their citizens. They have, by various and successive acts of legislation, manifested their constant earnestness to fulfil their duties towards all parties to that war: *they have repressed every intended violation of them, which has been brought before their Courts, and substantiated by testimony conformable to principles recognized by all tribunals of a similar jurisdiction.*" (British Appendix, vol. iii, pp. 157, 158.)

On the 14th May, 1869, Mr. Hoar, Attorney-General of the United States, thus instructed Mr. Smith, District Attorney for Philadelphia:—

*"Whenever complaint is made against any vessel on trustworthy evidence sufficient to establish before a Court of Justice probable cause to believe that such vessel is forfeitable for a violation of the Neutrality Laws, you are instructed to file a libel, and arrest the vessel."* (Documents accompanying the Counter-Case of the United States, part iii, p. 743.)

On the 17th May, 1869, Mr. Pierrepont, District Attorney of New York, wrote to Mr. Attorney-General Hoar with respect to certain vessels called the Memphis and Santiago, accused of a hostile destination against Cuba:—

*"There is no evidence, as yet, on which to detain them. I would suggest that if the Spanish Minister would instruct the Spanish Consul here to take some pains and collect some evidence relating to these matters, and bring it to my notice, I shall act with the greatest promptness."*

On the 11th May, 1869, Attorney-General Hoar, forwarding this letter to Mr. Secretary Fish, said:—

*"The several District Attorneys are instructed that whenever sufficient evidence is made known to them to establish before a Court of Justice probable cause to believe that any vessel is forfeitable for a violation of the neutrality laws, they are to file a libel, and arrest the vessel."* (Cuban Correspondence, 1866-71, presented with the American Counter-Case, pp. 58, 59.)

On the same day, Mr. Attorney-General Hoar sent, as general instructions to the United States' Marshals, a copy of a letter addressed on the 20th of May to the Marshal for the Southern District of New York, which contained the following passage:—

*"It is not deemed best, at present, to authorize or require you to employ detectives for the special purpose of discovering violations of the provisions of this Act" (the Act of Congress of 1818); "but you and your deputies are expected to receive all information that may be offered, and to be attentive to all matters of suspicion that may come to your knowledge; and, in cases where your action is required, to be vigilant, prompt, and efficient. I will thank you to communicate to me, from time to time, any information that you may deem trustworthy and important."*

On the 28th December, 1870, Mr. Fish, Secretary of State, wrote thus to Mr. Roberts, the Spanish Minister:—

*"The Undersigned takes the liberty to call the attention of Mr. Roberts to the fact that a District Attorney of the United States is an officer, whose duties are regulated by law, and who, in the absence of executive warrant, has no right to detain the vessels of American citizens without legal proofs, founded not upon surmises, or upon the antecedent character of a vessel, or upon the belief or conviction of a Consul, but upon proof submitted according to the forms required by law."* (British Counter-Case, page 46).

These extracts are conceived to show, that the principles and rules of practice of the Executive authorities of the United States, as to the evidence necessary to constitute "reasonable ground for belief," that any illegal equipment has been made or is being attempted within their jurisdiction, and to call for "diligence" in the use of the preventive powers of their law, have always been, and still are, essentially the same with those, on which the Government of Great Britain acted during the transactions which are the subject of the present inquiry.

After these instances of the practice of the United States in similar cases, it seems hardly necessary to recur to the extraordinary suggestion of Mr. Dudley, adopted in the American Argument (page 176), that whenever the American Consul at Liverpool told the British authorities that "he had no doubt" about the character of a particular vessel, they ought to have accepted this as sufficient till the contrary was shown, and not to have thrown the burden of proof upon the persons giving the information; that "the Government ought to investigate it, and not call upon us for proof." It was indeed quite right and proper that the officers of the British Government should investigate every case of which they were so informed for themselves, as well as they were able; and this is what they actually did on all occasions. But the British authorities at Liverpool had too frequent experience of the error and fallacy of Mr. Dudley's conclusions drawn from the association with particular vessels of firms or persons known or believed to be in

35. Of the suggestion, that the belief of the Consuls of the United States, in British ports, should be treated as sufficient *prima facie* evidence.