In like manner, in the recent case of the Hiawatha (a British prize, taken by the United States at the commencement of the late civil war),—when the question arose, whether the civil contest in America had the proper legal character of war, *justum bellum*, or that of a mere domestic revolt, and was decided by the majority of the Supreme Court of the United States in accordance with the former view,—Mr. Justice Grier, delivering the opinion of the majority, said:

"It is not the less a civil war with belligerent parties in hostile array, because it may be called an 'insurrection' by one side, and the insurgents be considered as rebels or traitors. It is not necessary that the independence of the revolted province or State be acknowledged, in order to constitute it a party belligerent in a war, according to the law of nations. Foreign nations acknowledge it as war by a declaration of neutrality. The condition of neutrality cannot exist unless there be two belligerent parties. In the case of the Santissima Trinidad (7 Wheaton, 337), this Court says: 'The Government of the United States has recognized the existence of a civil war between Spain and her Colonies, and has avowed her determination to remain neutral between the parties. Each party is therefore deemed by us a belligerent nation, having, so far as concerns us, the Sovereign rights of war.'"

Professor Bluntschli, in a contribution to the "Revue de Droit International" for 1870 (pages 452-470), in which, upon the assumptions of fact contained in a speech of Mr. Sumner in the Senate of the United States (and on those assumptions only), he favours some part of the claims of the United States against Great Britain, so far as relates to the particular ship Alabama, distinctly lays down the same doctrine:

"Du reste, le parti révolté, qui opère avec des corps d'armée militairement organisés, et entreprend de faire triompher par la guerre un programme politique, agit alors même qu'il ne forme point un Etat, tout au moins comme s'il en constituait un, au lieu et place d'un Etat ('an Staates statt'). Il affirme la justice de sa cause, et la légitimité de sa mission, *avec une bonne foi égale à celle qui se présume de droit chez tout Etat belligérant*" (pages 455-6).

Again:—

"Pendant la guerre on admet, dans l'intérêt de l'humanité, *que les deux parties agissent de bonne foi* pour la défense de leurs prétendus droits" (page 458).

And, at pages 461, 462:—

"Si l'on tient compte de toutes ces considérations, on arrive à la conclusion suivante. C'est que, à considérer d'un point de vue impartial, tel qu'il s'offrait et s'imposait aux Etats Européens, en présence de la situation que créaient les faits, la lutte engagée entre l'Union et la Confédération, c'est-à-dire, entre le Nord et le Sud, il était absolument impossible de ne pas admettre que les Etats Unis fussent alors engagés dans une grande guerre civile, ou les deux partis avaient le caractère de Puissances politiquement et militairement organisées, se faisant l'une à l'autre la guerre, suivant le mode que le droit des gens reconnaît comme régulier, et animés d'un égale confiance dans le bon droit. . . . . *Tout le monde était d'accord qu'il y avait guerre, et que, dans cette guerre, il y avait deux parties belligérantes.*"

9. All the ships in question were duly commissioned ships of war.]

That all the vessels of which there is any question before the Arbitrators, and especially those which are alleged to have been equipped or adapted for warlike uses within British territory, were, in fact, commissioned and employed as public ships of war by the authorities then exercising the powers of public government in the Confederate States, is not seriously (if it be at all) disputed by the United States. The proofs of it* abound both elsewhere and in those intercepted letters from Confederate authorities, and other Confederate documents (such as the Journal of Captain Semmes, &c.), which the United States have made part of their evidence; and to which, for this purpose at all events, they cannot ask the Arbitrators to refuse credit. All these vessels were always received as public ships of war in the ports of France, Spain, the Netherlands, Brazil, and other countries. "As to the Florida," said the Marquis d'Abrantes, the Foreign Minister of Brazil, writing to Mr, Webb on the 22nd June, 1863:—

"The Undersigned must begin by asking Mr. Webb's consent to observe that if the President of Pernambuco knew that that steamer was the consort of the Alabama, as was also the Georgia, it does not follow, as Mr, Webb otherwise argues, that the said President should consider the Florida as a pirate.

"According to the principles of the neutrality of the Empire, to which the Undersigned has already alluded, all these vessels of the Confederate States are vessels of war, exhibiting the flag, and bearing the commission of the said States, by which the Imperial Government recognized them in the character of belligerents."†

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* See Appendix to Case of the United States, vol. ii, pp. 486, 487 (Sumter); ibid., pp. 550, 551 (Nashville) ibid., pp. 614, 633, and vol. i, p. 543 (Florida); vol. vi, p. 486 (Alabama); vol. ii, pp. 673, 680, 713 (Georgia) vol. iii, p. 332, &c. (Shenandoah); also Mr. Benjamin's Instructions, vol. i, pp. 621-624.

† British Appendix, vol. vi, pp. 59, 60.