waters as bases of naval operations, and if not prohibited by the Foreign Enlistment Act, and if the British Executive Government could not and would not prevent them, and that was the limit of their duty under their Foreign Enlistment Act, still we come *here* for judgment, whether a nation is not responsible that deals thus in the contribution of military supplies, that suffers ship after ship to go on these errands, makes no effort to stop them, but, on the contrary, announces, as the result of the deliberation of the Law Officers, to the subordinate officials, to the Minister of the United States, to all the world, that these things are *not* prohibited by the law of Great Britain, and cannot be prohibited by the Executive Government, and therefore cannot and will not be stopped. That this was the doctrine of the English Government will be seen from a letter dated the 2nd of April, 1863, of Lord Russell, found in part, in Vol. ii, American Appendix, p. 404; and in part, in Vol. i, ibid., p. 590:—

"But the question really is, has there been any act done in England both contrary to the obligations of neutrality as recognized by Great Britain and the United States, *and capable of being made the subject of a criminal prosecution?* I can only repeat that, in the opinion of Her Majesty's Government, no such act is specified in the papers which you have submitted to me."

* * * * * *

"I, however, willingly assure you that, in view of the statements contained in the intercepted correspondence, Her Majesty's Government have *renewed* the instructions already given to the Custom-house authorities of the several British ports where ships of war may be constructed, and by the Secretary of State for the Home Department to various authorities with whom he is in communication, to endeavour to discover and obtain legal evidence of any violation of the Foreign Enlistment Act, with a view to the strict enforcement of that Statute whenever it can really be shown to be infringed."

* * * * * *

"It seems clear, on the principle enunciated in these authorities, that, except on the ground of any proved violation of the Foreign Enlistment Act, Her Majesty's Government cannot interfere with commercial dealings between British subjects and the so-styled Confederate States, whether the subject of those dealings be money or contraband goods, or even ships adapted for warlike purposes."

These were instances in which complaints were made of these transactions, and in which it was answered that the British Government charged itself with no duty of due diligence, with no duty of remonstrance, with no duty of prevention or denunciation, but simply with municipal prosecutions for crimes against the Foreign Enlistment Act.

What I have said of the Shenandoah, distinguished her from the Florida, and the Alabama, and the Georgia, only in the fact that, from the beginning to the end of the Shenandoah's career, she had *no* port of any kind, and had *no* base of any kind, except the ports of the single nation of Great Britain. But as to the Florida and the Alabama, one (the Alabama) was supplied by a tug, or steamer, that took out her armament to Angra Bay, the place of her first resort; the other (the Florida) was supplied by a vessel sent out to Nassau to meet her, carrying all her armament and munitions of war, and which she took out in tow, transshipping her freight of war material outside the line of neutral waters.

That is called dealing in contraband, not proscribed by the law of nations, not proscribed by any municipal law, and not involving any duty of Great Britain to intercept, to discourage, or denounce it. This is confounding substance with form. But let me use the language of an Attorney-General of England, employed in the Parliamentary discussions which attended the enactment of the Foreign Enlistment Act of 1819.

From this debate in Parliament, it will be seen what the principal Law Adviser of the Crown *then* thought of carrying on war by "*commercial transactions*:"

"Such an enactment," he said, "was required by every principle of justice; for when the State says 'We will have nothing to do with the war waged between two separate Powers,' and the subjects in opposition to it say, 'We will, however, interfere in it,' surely the House would see the necessity of enacting some penal statutes to prevent them from doing so; unless, indeed, it was to be contended, that the State and the subjects who composed that State, might take distinct and opposite sides in the quarrel. He should now allude to the petitions which had that evening been presented to the House against the Bill; and here he could not but observe, that they had either totally misunderstood or else totally misrepresented its intended object. They had stated that it was calculated to check the commercial transactions and to injure the commercial interests of this country. If by the words 'commercial interests and commercial transactions' were meant 'warlike adventures,' he allowed that it would; but if it were intended to argue that it would diminish a fair and legal and pacific commerce, he must enter his protest against any such doctrines. Now, he maintained, *that as war was actually carried on against Spain by what the petitioners called 'commercial transactions,' it was the duty of the House to check and injure them as speedily as possible.*"—(Note B, American Argument, p. 508; Fr. tr. Appendice, p. 488.)

War against the United States, maritime war, was carried on under cover of what was called right of asylum and commercial transactions in contraband of war. We are now