

## Reply of Mr. Waite, Counsel of the United States, to the Argument of the Counsel of Great Britain, upon the Special Question as to Supplies of Coal in British Ports to Confederate Ships.

THE "*special question as to supplies of coal in British ports to Confederate ships,*" necessarily involves an examination of the facts and circumstances under which permission to take such supplies was granted.

It is not contended by the Counsel of the United States, that all supplies of coal in neutral ports to the ships of war of belligerents are necessarily violations of neutrality, and, therefore, unlawful. It will be sufficient for the purposes of this controversy, if it shall be found that Great Britain *permitted* or *suffered* the insurgents "to make use of its ports or waters as the base of naval operations against the United States," and that the supplies of coal were obtained at such ports to facilitate belligerent operations.

1. All naval warfare must, of necessity, have upon land a "base of operations." To deprive a belligerent of that, is equivalent to depriving him of the power to carry on such a warfare successfully for any great length of time. Without it he cannot maintain his ships upon the ocean.

2. A "base of operations" for naval warfare is not alone, as seems to be contended by the distinguished Counsel of Great Britain (sec. 3, chap, iii, of his Argument), "a place from which operations of naval warfare are to be carried into effect." It is not, of necessity, the place where the belligerent watches for, and from which he moves against, the enemy; but it is any place at which the necessary preparations for the warfare are made; any place from which ships, arms, ammunition, stores, equipment, or men are furnished, and to which the ships of the navy look for warlike supplies and for the means of effecting the necessary repairs. It is, in short, what its name implies,—the support, the foundation, which upholds and sustains the operations of a naval war.

This was the doctrine recognized by Earl Russell on the 25th of March, 1862, three days after the Florida got out from the port of Liverpool, and while the correspondence in reference to her construction and outfit was fresh in his mind. In writing to Mr. Adams, at that time, in reference to complaints made of the treatment of the United States' vessel of war Flambeau at Nassau, in the month of December previous, he used this language:—

"On the other hand, the Flambeau was avowedly an armed vessel in the service of the Federal Government. She had entered the port of Nassau, and had remained there for some days, without any apparent necessity for doing so, and the authorities had not been informed of the object of her visit. To supply her with coal might, therefore, *be to facilitate her* belligerent operations, and this would constitute an infraction of the neutrality prescribed by the Queen's Proclamation of the 13th May last." (American Appendix, vol. i, p. 348.)

3. This "base of operations" must be within the territory of the belligerent or of his ally. A neutral which supplies it, violates his neutrality, and may be treated as an ally. A belligerent using without permission the territory of a neutral for such a purpose, commits an offence against the laws of neutrality, and subjects himself to the forcible expulsion of his ships of war, and to all other means of punishment and redress which may be requisite for the vindication of the offended neutral Sovereign.

4. After the end of the summer of 1861, the insurgents never had any available base of operations for naval warfare within the limits of their own territory. From that time forward until the end of the contest, the United States maintained a blockade of all the insurgent ports, which was recognized by all neutral nations as lawful, and was so far effective as to prevent any vessel of war (unless the Tallahassee and Chickamauga, with