

ment or augmentation of force was the proximate cause of any of her captures, and in however large a degree other causes may have evidently contributed to her means of offence? If what was done to the Florida at Mobile had been done in a Spanish port, by the permission or culpable neglect of the authorities; if, after lying for four months in a Spanish port, she had there, for the first time, obtained a fighting crew, and had been dispatched from thence to prey upon American commerce, would it still have been contended that Great Britain, and not Spain, was liable? Or would it have been contended that both Great Britain and Spain were liable, under such circumstances, and that the liability of both was indefinite and unlimited till the conclusion of the war? Will the Tribunal give its sanction to such doctrines as these, not only without any aid from authority, but in opposition to all the light which is deriveable from the reason and analogy of the doctrines of international jurisprudence, and of the jurisprudence of the United States themselves, in other cases, which ought to be governed by similar principles?

The legitimate inference, from the analogy of the law as to breach of contraband, is, that any responsibility which Great Britain may have been under as the neutral State from which the Florida was introduced into Mobile, came to its natural end when (having previously committed no act of war) she was once at home in that port, and became *bonâ fide* incorporated, within their own territory, into the naval force of the Confederate States. The legitimate inference from the doctrine of Chief Justice Marshall, in the case of the *Gran Para*, is, that having been once *bonâ fide* received into Mobile, as her proper port, and having been there manned, and dispatched from thence, for her subsequent cruise, an effectual line of separation was drawn, for all legal and international purposes, between everything which had occurred before she entered into that port and everything which occurred afterwards; and that (no hostile cruising against the United States having taken place during the interval between her leaving Liverpool and her entrance into Mobile), Great Britain had no just cause for afterwards refusing to her the ordinary immunities and privileges of a duly commissioned ship of war of a belligerent Power, and certainly was not under any obligation towards the United States to do so, even if a different rule would have been applicable to such a ship as the *Alabama*, which was not dispatched for her cruise from any Confederate port.

As between Great Britain and the Florida the case stood thus. Her acquittal at Nassau was conclusive, as a judgment *in rem*, so as to make it unjustifiable and impossible for any British authority afterwards to revive against her the causes of complaint which had occurred before that acquittal; and her subsequent reception of an armament at Green Cay, not being accompanied or preceded by the enlistment of any crew sufficient for hostilities, and not being followed by any warlike operations before her entrance into Mobile, though it was an infringement of British municipal law, was not such an offence by general international law, as to call for or justify war or reprisals against the Confederate States, nor such as to adhere to the ship through all subsequent circumstances. The responsibility of Great Britain to the United States, in respect of this ship, could not exceed the responsibility of the Confederate States, in respect of the same ship, to Great Britain.

ROUNDELL PALMER.

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