

III.

As a matter of fact, the evidence concerning what happened at Mobile by no means exhibits the crew with which the Florida left Mobile as *original* enlistments there. The force she took from Nassau, and which enabled her to make the port of Mobile, must have adhered to her. All the motives for such adherence continued in full force, and in a port without ships or trade, and so absolutely closed as Mobile was, there was no possible chance for them, as seamen, except to adhere to the Florida. The evidence does not contain any shipping articles, either at Nassau or at Mobile, and the list made by, or for verification by, Thomson at Liverpool, in reference to prosecutions under the Foreign Enlistment Act, was made only in reference to nationality and the place where, within Thomson's knowledge (who did first join her at Mobile), *he found them connected with the Florida*. Very possibly a form of enlistment or engagement, as from Mobile as the place of departure, if they could ever get out, for the purposes of wages or otherwise, may have been gone through at Mobile, though it is not so proved. A perusal of Thomson's affidavit will show that it, and the accompanying list, relate only to crew *dating* on the cruise from Mobile, or from later recruitment, and that he imports to give no evidence that there were not *re-enlistments* at Mobile of her former crew, except in his own case, or by incidental inference, perhaps, in some others.

IV.

The learned Counsel diverges, as it seems to us, from the point open for discussion into a somewhat vague inquiry as to what should be the consequences in respect of *indemnity* to the United States, from the responsibility of Great Britain for the violations of her obligations as established by the three Rules of the Treaty, if the Tribunal should find Great Britain so responsible.

We have considered this subject in our Argument, submitted on the 15th of June, and need not renew that discussion unless it is required from us. Of course minute and artificial reasoning may attempt to make out that the *last* man essential to a crew for navigation or fighting, or the *last* rope or spar which she could not spare, was the guilty cause of all a cruiser's subsequent depredations, and that all preceding structure, fitment, armament, munitions, officers, and men, are absolved from any share of the guilt. This reasoning may point the wit of the proverb that "it is the last ounce that breaks the camel's back," but will not go much further. The response is too immediate. What preceded is what gives the place and power for the casual incorporation of the new atom, and the preceding preparations prepared for these casual and fluctuating elements of prosperous war, and thereby, as well as directly, for the war itself. Again we have only need to repeat, "*Omne principale ad se trahit accessorium.*" The provisions of the Treaty plainly indicate what the responsibility for *indemnity* should be if the responsibility for *fault* be established.

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