

An Incident of the
Alabama Claims Arbitration



"STEADFAST FOR GOD AND COUNTRY"

BY RALPH E. PRIME, D.C.L., LL.D.

Past Governor General of the General Court

READ BEFORE

THE NEW YORK SOCIETY
OF THE
ORDER OF THE FOUNDERS AND
PATRIOTS OF AMERICA

MARCH 23, 1906

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OF THE
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AN INCIDENT OF THE ALABAMA CLAIMS ARBITRATION

BY RALPH E. PRIME, D.C.L., LL.D.

[The writer appreciates that there are some matters in the paper which do not strictly belong to the incident, but he believes that they are necessary, to many who do not know the story of the Alabama, for a full understanding of the incident.]

No man who ever knew Benjamin Franklin Stevens, who was for so many years the American Despatch Agent at London, England, but valued that acquaintance. Mr. Stevens was a rare man, and, notwithstanding his long residence in England, he was a thorough American and an intense lover of his country. He was born in Vermont in 1833, and after a short experience at the Capitol of that State, at Albany and at Washington, he was called to London to aid his brother, who had preceded him to England. He became so useful to Americans that his merits were recognized, and in 1866 he was appointed Despatch Agent for the United States of America, resident at London, and continued to discharge his duties as such as long as he lived. He died in 1904.

It was my privilege to form his acquaintance about ten years ago on one of my visits to London, and ever afterwards when I visited that city I enjoyed his fellowship, and looked forward to it as one of the pleasures of my vacation.

Mr. Stevens' service extended over so many years of our national history, in its most stirring times, in which he must have been an actor, that his memory must have been stored with many incidents, intensely interesting, connected with the history of our country and yet unknown to written history.

On one of my visits to England with my wife and daughters I spent nearly a week with Mr. Stevens and his wife in the George Hotel at Winchester. Sometimes together we were off in the daytime visiting things that interested both of us, and then again he and I would be off in the daytime separately, each visiting something of interest to himself, and in the evenings we

would sit together in the enclosed and covered garden and talk until late, while he entertained us with incidents which had happened during his residence in London. During that week he told me many such events, in which he was an actor himself, and which were of absorbing interest to me, and are utterly unknown to the mass of Americans, and have never been written, and which are probably even now unknown to any one connected with any recent administration of the national government.

I have been invited to write, as nearly as I can recall, the statement which Mr. Stevens made to me concerning one of those incidents, and which, so far as memory serves me, I have never spoken of to exceed on four occasions.

But to the appreciation of it by many of the generation since born, and who never learned much about its details, it will be necessary briefly to recall other things connected with the history of the Civil War, and there are many older persons who at the time were of mature years, but to whom, with the flight of time and the fullness of these later years, those events are at least very dim to recollection, and for them we will be excused if we to some extent recall some of the events of those days, and details which perhaps even they never knew.

The great and detestable heresy of the right of a State to secede from the American Union probably had its birth in Massachusetts as early as the differences of 1808. Encouraged by the disloyal acts thus early of New England men, John C. Calhoun, a Southern man, a citizen of South Carolina, and then Vice-President of the United States, in 1830 set forth his form of the heresy under the name of Nullification. Andrew Jackson, another Southern man, a native of the Carolinas, but a citizen of Tennessee, was then President of the United States, and to him the nation owes a like debt as to Abraham Lincoln, for Andrew Jackson, with the ardor and violence of his Southern nature, stamped out that crime with a remarkable proclamation, and by his even more remarkable threat that for the first overt act he would place John C. Calhoun, the great Nullifier, and Vice-President of the United States, behind bars. In November, 1860, Abraham Lincoln was elected President of the United States; and from that time, if not before, commenced preparation for secession of the Southern States from the Union, the greatest crime against our country which history records, and which

then ripened, and in April, 1861, culminated in the first acts of overt resistance to law and authority in our great Civil War.

The war was on. The Southern coast was effectually blockaded against the entry of ships into Southern ports, and the issue of ships from them, and the blockade was officially proclaimed to the world.

For a long time before those events the subject of the abolition of privateering and treatment as pirates of vessels of war having letters of marque had occupied the attention of Great Britain, France and the United States and other nations. Negotiations toward an agreement to that end had extended over several years, and up to 1861 had not resulted in the adoption of that international rule. At that time, when the powers were all of one mind, Great Britain refused to enter into the agreement with the United States unless it was also agreed that it should not apply to the two belligerents in the American War then on. Thus, perhaps inferentially, but later in other clearer language, all in harmony with the desire of the shipbuilders and merchants of England, was there a recognition of the belligerency of the rebellious Southern States and a distinct position taken of unfriendliness to this country. These matters were publicly exploited in speeches delivered in the two houses of Parliament and by the Ministers of the Queen in public addresses all over the Kingdom, and the position of the government on the questions, then acute, no doubt encouraged in their acts such of the English people who were of that mind, and also naturally resulted in supineness and carelessness of public officials in the performance of the duties they owed to our country, then in fact and in law a friendly power. This was so much so that Mr. Laird, the builder of the Alabama, and a member of Parliament, in a speech in the House of Commons, found it easy, as he desired, to avow and defend his acts. Happily in the change of English sentiments toward us and ours toward them, such conditions have forever ceased and the results can never occur again.

As early as October, 1861, agents of the Rebel States contracted with the Laird Company for the building of a ship of war, named the Alabama. Another English firm contracted also to build another ship of war for the Rebel States, called the Florida. The Alabama was the larger vessel, and her building progressed more slowly. The Alabama was launched May 15,

1862, and made her trial trip June 12, and June 23, our Minister, Mr. Adams called the attention of Lord Russell, the British Secretary of Foreign Affairs, to the character of the vessel, and an examination was made, and the commissioners reported to the British Secretary that she was evidently a war vessel, and that the information given by Mr. Adams was correct. An order was given for the detention of the vessel, but was so intentionally slow in transmission that she was allowed to escape, and she was actually manned on the coast of the Island of Anglesia on the Welsh Coast with the full knowledge of the British officers at Liverpool.

Practically the same is the story of the Florida and the Sumter, two other vessels.

The funds for building these vessels and for their armament and supplies, and for the money chests on board, as also for their subsequent supplies, was furnished at Liverpool and other British ports, of all of which our Minister apprised the British Secretary, who refused to interfere, alleging want of proof, and took no steps to ascertain the facts for himself. He was, as early as March, 1863, apprised by Mr. Adams of what was going on, and that had called out from Lord Russell a letter, in which he stated clearly enough the duty of the British Government in the premises.

Our own navy was busy enough in its blockade of our Southern coast, and the Alabama and the other Rebel craft had almost free course in all other waters, and preyed upon our merchant ships on all the seas, and also on the vessels of the Treasury, which were unarmed or only slightly armed, and pursued their business of supplying the lighthouses and other peaceful duties.

The end of the deprivations of these vessels was gradually accomplished. The end of the Alabama was a great event of the Civil War. She came into the port of Cherbourg for supplies and repairs in June, 1864. Our sloop of war, the Kearsarge, in command of Captain Winslow, was in those waters, and at Flushing, in the Netherlands, and hearing of the arrival of the Alabama at Cherbourg, immediately proceeded there, and, sending a boat ashore, steamed out of the harbor and took station outside, and maintained a close watch on the port. Semmes, the commander of the Alabama, had long warred against defenceless merchant ships, and could not afford to refuse battle

now, for the first time forced upon him, by a foe of nearly his own strength. For four days he remained in the port preparing for battle. On the 8th of June, a Sunday, the Alabama came out of the harbor escorted by a French man-of-war and by a British yacht, the Deerhound. The high French shores were covered with spectators to see the fight. The Kearsarge, which had lain off the eastern entrance of the harbor, steamed far outside the three-mile limit, and to a point full seven miles off shore, to prevent Semmes running away if the battle should be against him, and then turned and steamed for the enemy. The Kearsarge was the faster boat. She had a few more men and a few heavier guns, but in point of the number of guns, the Alabama had one more than the Kearsarge, and in the battle actually fired twice as many shots as did the Kearsarge. But the real advantage of the Kearsarge was that she was manned by Americans and patriots, while the crew of her adversary were largely foreigners and hirelings. The Alabama opened the battle and the Kearsarge received a full broadside, and a second, and part of a third. It was before the era of ironclad ships, and Captain Winslow had hung the sides of his vessel with chain cables. This device proved, however, to be of no material value, for only two of the shots from the Alabama struck those cables, in places, too, where, if the cables had not been there, they could have done no serious injury. The vessels sailed in a circle, firing upon each other. They made seven complete circuits of the circle. The battle continued for more than an hour, when the Alabama headed for shore to escape, and then it was that she exposed a vulnerable spot, which the guns of the Kearsarge blew out, and she began sinking and was rapidly filled, and being headed off by the Kearsarge, Semmes struck his flag, but soon the vessel sank forever below the waters of the English Channel. The Deerhound came up and assisted in saving the ship's company and sailed off with those it rescued to Southampton. It was an unpardonable act. The crew, helpless in the water, were part of the fruits of the victory, and belonged to the Kearsarge, and should have been surrendered to the victorious commander, whose officers, seeing the contemptible act, implored him to turn his guns on that vessel.

Such was the end of the Alabama. And after this long introduction, now for the story I am to relate.

The Treaty of Washington was negotiated for the settlement of controversies between the United States of America and the Kingdom of Great Britain. It was negotiated in March, April and May, 1871. The high commissioners comprised, on the part of the United States of America, five well-known Americans, namely, Hamilton Fish, then our Secretary of State; General Robert G. Schenck, then our Minister to the Court of St. James; Hon. Samuel Nelson, then one of the justices of the Supreme Court of the United States; Ebenezer Rockwood Hoar, of Massachusetts, and Senator George Henry Williams, of Oregon; and on the part of Great Britain, five of the best-known subjects of the Queen of Great Britain, namely, the Earl of Grey and Ripon, also Viscount Goderich and Baron Grantham, a Baronet, a Peer of the United Kingdom, &c., &c., and at the time Lord President of Her Majesty's Most Honorable Privy Council, &c., &c.; the Right Honorable Sir Stratford Henry Northcote, Baronet; one of Her Majesty's Most Honorable Privy Council; Sir Edward Thornton, Baronet, &c., then the Minister of Great Britain to the United States, Sir John A. McDonald, the Canadian statesman, and Mr. Montague Bernard, of Oxford University. After thirty-six conferences of these high commissioners, the convention or Treaty was concluded at Washington in May, 1871, and is known as the Treaty of Washington, and the ratifications were exchanged June 17, 1871. The Treaty provided for the settlement of differences between the two governments, and principally the settlement of the claims generally known as the "Alabama Claims."

In its first Article it provided for the formation of a tribunal of arbitration, composed of five arbitrators. The second Article provided for the meeting of the tribunal at Geneva, in Switzerland. The third Article provided for the delivery in duplicate of a written or printed *case* of each of the two parties to each of the arbitrators, and to the agent of the other party, "as soon as may be after the organization of the tribunal, but within a period not exceeding six months from the date of the exchange of ratifications of this Treaty." The fourth Article provided that within four months after the delivery of such *case* either party might in like manner deliver in duplicate to each of the arbitrators and to the agent of the other party a *counter-case*, and the second paragraph of that Article provided that the arbitrators

might extend the time for the delivery of such *counter-case* when in their judgment it becomes necessary in consequence of the distance of the place from which evidence to be presented is to be procured.

The day of the week on which the ratifications were exchanged was Saturday, and, as stated, the seventeenth day of June, 1871. The six months mentioned in Article III would have expired with the eighteenth day of December, 1871, which was Monday.

While sitting together one of those evenings in Winchester, with Mr. Stevens, something suggested the Treaty of Washington and the Alabama claims arbitration, and Mr. Stevens related to me the incident I am about to relate, and which I will attempt to recall as nearly as I can—as Mr. Stevens told it—although after this lapse of time, nine years and more, I cannot pretend to give his exact words, and hence they must be mine, as nearly as I can repeating Mr. Stevens' story as he told it to me.

He had received, as the Agent for the American Government, a copy of the *case* of that government, and being the agent of the government for all such purposes, he was looking out for the arrival of the duplicate copies to be delivered to the British Government, and that was the reason why his attention was upon it. The last steamer which could have brought those copies for the British Government had arrived, and sufficient time had elapsed for bringing the package to him from Liverpool, but no package had come. His interest in the matter, and his general interest for all that belonged to his people and his country, led him on that Saturday, December 16, 1871, to take a hansom cab and drive to the office of General Schenck, the American Minister. He entered the office and soon saw General Schenck, and asked him if he had received the American *case*, to which General Schenck replied, "Oh, yes; there it lies upon my table," pointing to it. "But," said Mr. Stevens, "have you received the duplicate copies to be delivered to the British Government?" Mr. Schenck replied that he had not. "Well," said Mr. Stevens, "I think I will drive to the British foreign office and see if they have been sent there direct." Whereupon he left the American Embassy, called another cab, and drove in it to Downing Street and to the office of the British Secretary of Foreign Affairs, and soon had an audience with the British Secretary, of whom he inquired had he received the copies of

the American case pursuant to the Treaty of Washington. He was told that they had not been received. "Well," said Mr. Stevens, "I suppose that you will extend the time in case they do not come?" "Oh, no," said the British Minister, "there is no provision in the Treaty for the extending of the time for the service by either party of their case, but there is a provision in the Treaty for extending the time for service of the counter-case, and I am bound to suppose that the learned and distinguished representatives of both countries in drafting that convention or treaty had the best of reasons for making a difference of provision in the one case from the other, and for using different language as to one act to be done, than as to the other act to be done, and that by so saying that the time might be extended for the delivery of the counter-case they meant it, and by not saying so as to the time within which the case itself was to be delivered, they consequently meant that there should not be any extension of time." Mr. Stevens asked: "What will be the result in case you do not receive the case within the limited time?" The British Secretary replied: "There is but one result that can follow, and that is that the failure to deliver the case within the stipulated time is an abandonment of the provisions of the Treaty by the government that fails of compliance with that provision of the Treaty." After the exchange of proper courtesies Mr. Stevens left him, and, calling a cab again, drove hurriedly back to the American Embassy, and was again in the presence of General Schenck, to whom he related what had transpired between himself and the British Secretary of Foreign Affairs. "Well," said General Schenck, "it is none of your business and none of mine; neither you nor I have failed in any duty; the responsibility must rest where it belongs—upon those who have failed in the performance of their duty." "But," said Mr. Stevens, "will you do nothing?" To which General Schenck replied, "Nothing." Mr. Stevens then said to General Schenck: "Will you lend me your copy of the case?" "No," said General Schenck, "you have your copy, and this copy belongs in the archives of the Embassy." "Well," said Mr. Stevens, "General Schenck, suppose it is missing, what then?" "Oh," said General Schenck, "I do not think it will matter much; I do not think I will take any notice of it if it is missing." Whereupon Mr. Stevens quietly backed to the table upon which the document lay, and passed his hands behind him

and took the thin book (less than one inch in thickness), and slipped it into the skirt pocket of his coat, and quietly bade General Schenck "Good-morning" and again took a street cab. Said he to me: "I knew that my printer had a new font of type, which, as nearly as I could judge, was such a counterpart of the type from which the American case had been printed, a copy of which I had, that no one but an expert printer would be able to distinguish between the two fonts. It was Saturday, and it was nearly noon, and the beginning of the customary Saturday half-holiday approached. Arriving at the printer's office I observed the typesetters all coming down-stairs, and I accosted them, asking where they were going, to which I received a reply that it was the Saturday half-holiday and the 12 o'clock hour was striking; and I shouted to the line, "A shilling a day to each one of you who will return to his case." The line turned back. Mr. Stevens, as he said, entered the foreman's room and produced General Schenck's copy of the case and also his own copy, and he said to the foreman: "You have a new font of type, I know, from which you can reproduce this book, and I want to have it reproduced by Monday morning early. It must be done, although to-morrow is Sunday, for great issues hang upon it." "But," said the foreman, "it cannot be done; this is Saturday half-holiday this afternoon, and all of the typesetters are gone by this time." "Oh, no," said Mr. Stevens; "I have met them on the stairs and promised them a shilling a day apiece for every man who would return to his case, and they have all gone back." "Well," said the foreman, "if that is so, it can be done." And the foreman and Mr. Stevens took the two copies of the case and tore them to pieces and they were distributed to the compositors, and Mr. Stevens left the printer's office with the assurance that the job would be done and 100 copies of it printed in sheets by Monday morning at 9 o'clock. Mr. Stevens, leaving, took with him the single lithograph print contained in the book (it was a rough map of our Southern coast, the Gulf of Mexico and the islands—the Antilles and the Bahamas), and drove at once to a lithographer's and made the same arrangements with him to have 100 copies of the lithograph plate ready at the same time on Monday morning. He then drove to a case-maker and binder and made the same arrangement to have 100 cases ready in which to insert the book on Monday morning at 9 o'clock, and

then he went home assured that he controlled the situation. On that Monday morning, at the hour appointed, he appeared at the printer's office and took into his hands the sheets of the 100 copies printed complete (even to the typographical errors in the original copies), and drove to the lithographer's, where he secured the 100 copies of the lithograph print, and with the whole drove to the case-maker's, where he deposited his load. Four copies of the work were assembled, and, as well as time permitted, stitched and put into four cases, and Mr. Stevens with them entered a cab and drove to Downing Street and to the office of the British Secretary of Foreign Affairs, and delivered, before 12 o'clock of that day, the last day pursuant to the Treaty, two copies of the American case to Lord Tenterden, the Under Secretary of Foreign Affairs, who had been named as the British Agent. He then drove to General Schenck's office and returned to him one of the other copies reproduced in the place of the one which he had taken on the previous Saturday, and told General Schenck the story of what he had done.

"Well," said I, "Mr. Stevens, that is a most interesting and wonderful story. Of course it has been told and gone well into history." "No," said he, "never, save to a few persons, and you are one of that few, and it must never go into print as long as I live." "And," said I, "of course the United States Government repaid you the expense of what you had done?" To which he replied: "Never a cent of it." I said: "Why, what do you mean?" Said he: "I never presented any bill or claim for it. The fact is that before Parliament assembled that evening the news of the service of the American case on the British Government was well known to many, and the next day I was called upon by many, to obtain copies of it, and I sold to members of Parliament for a pound apiece every copy that I had to spare, and I realized more than enough to cover the expenditure." "Well," said I, "how do you account for the failure of the Washington authorities to comply with the terms of the Treaty?" "Oh," said Mr. Stevens, "when the next steamer arrived the bundle came. Instead of committing so important a matter to the hands of a special messenger to bring it across the Atlantic, or sending the number of necessary copies at the time that a single copy was sent to General Schenck and a single copy was sent to me, the bundle was entrusted to the custody of an ex-

press company, and as it was thought in time for the last steamer, but the express messenger, knowing nothing of the importance of the package, treated it like any other, and it reached New York after the steamer had sailed."

To understand the importance of the act performed by Mr. Stevens, we must remember that it saved the arbitration at Geneva to us, and that the award of that tribunal to America for the depredations of the Alabama and the Sumter and the Rebel vessels was a round sum of \$15,500,000.