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‘Due Diligence’ and the British Government’s Response to Confederate Ship Procurement in Britain during the American Civil War

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Abstract

The British government’s stance towards the American Civil War belligerents, while professedly neutral, has often been seen by historians as leaning, more or less strongly, towards the Confederacy. Its failure to prevent the Confederates from procuring warships in Britain during the war is regularly cited as supporting this viewpoint. This article examines in detail Britain’s response to the vehement demands from the US government to shut down the Confederates’ ship procurement programme in the context of Britain’s administrative machinery in the 1860s. It concludes that the state apparatus at the time was not fit for purpose, and in particular that it lacked central direction, was hidebound in its procedures, and was too dependent on individuals’ competence and integrity to rise to meet the challenge to British law and governance mounted by a determined Confederacy. However, Britain did make considerable efforts to prevent the Confederates from obtaining warships and did not set out with the deliberate intent to aid and abet the Confederate States by providing them with a navy, did not turn a blind eye to Confederate activity, and did not demonstrate a negligent disregard for its own laws.

I

If another Gunpowder Plot had been discovered half an hour before the lighting of the match, nobody would have been justified in saving the parliament until there had been half a score of boards, half a bushel of minutes, several sacks of official memoranda, and a family-vault full of ungrammatical correspondence, on the part of the Circumlocution Office.¹

On 13 May 1861 a royal proclamation of neutrality was issued in London in respect of the war which had a month earlier finally broken out between the seceding Confederate States of America and the United States. The proclamation drew the attention of her majesty’s subjects to the need to ‘observe a strict Neutrality’ in the war, and in particular to:

¹C. Dickens, *Little Dorrit* (London, 1953), p. 104.

a certain Statute made and passed in the Fifty-ninth Year of His Majesty King George the Third, intituled 'An Act to prevent the enlisting or Engagement of His Majesty's Subjects to serve in a Foreign Service, and *the fitting out or equipping, in His Majesty's Dominions, Vessels for Warlike Purposes*' (emphasis added).²

Notwithstanding this announcement of 'strict Neutrality', and the 1819 Foreign Enlistment Act's provisions in respect of fitting out or equipping warships for belligerents, in the course of the war the Confederate States procured eight cruisers in British ports with which to harry US merchant ships; they also commissioned but were prevented from using two rams, designed to break the US Navy's blockade of their ports.³ The cruisers burnt or captured as prizes more than 150 US merchant ships.⁴ US carriers hurried to reregister under a new flag, often the British, with the result that 'the United States' commerce is rapidly vanishing from the face of the ocean'.⁵ The US government was outraged; historians have often concluded that it was right to be so: more than this, that the Confederate ship procurement programme reinforces the widely held view that British policy was sympathetic to the Confederate States.

This article argues that the British government's failure to prevent the sailing of Confederate warships was a result primarily of administrative shortcomings. The apparatus of government in the first half of the 1860s was by no means fully formed, and what there was often displayed considerable incompetence. Conversely, the great efforts that were in fact made – irrespective of their eventual success (there was some) and in the face of the structural shortcomings of the bureaucracy – to stop the Confederates' activities undermine the argument that the British government deliberately looked the other way. Scholarship to date on the British response to the American Civil War has tended to focus on macro issues such as trade policy, geopolitical factors, class predispositions, or the personal views of leading politicians and concluded that there were good reasons for Britain to favour the Confederacy. Each of these views has its adherents and sceptics; this article examines, at a micro level, the mechanics of government and argues that these alone suffice to account for the British government's handling of the Confederate ship procurement programme and, by extension, its diplomatic posture towards the Civil War belligerents.

² *British and Foreign State Papers, Vol. LI (1860–1)* (London, 1868), p. 165 (<https://babel.hathitrust.org/cgi/pt?id=mdp.39015036025719&view=1up&seq=205>; accessed 30 Oct. 2023); Foreign Enlistment Act 1819, 59 Geo III ch. 69 (<https://vlex.co.uk/vid/foreign-enlistment-act-1819-808143793>, accessed 30 Oct. 2023). The act was, and this article is, concerned only with warships, not blockade-runners.

³ The eight warships were the *Florida*, *Alabama*, *Georgia*, *Alexandra*, *Rappahannock*, *Shenandoah*, *Georgiana* (wrecked on entering Charleston before being armed), and *Pampero/Canton* (which never left Glasgow).

⁴ T. Boaz, *Guns for cotton: England arms the Confederacy* (Shippensburg, PA, 1996), p. 9, gives figures of 69 prizes for the *Alabama*, 48 for the *Shenandoah*, and 36 for the *Florida*; they were by far the most successful British-built cruisers.

⁵ (Charles Francis) Adams to (Earl) Russell, 7 Apr. 1865, London, The National Archives (TNA), 'US: Corres. Discharge of Neutral Duties by Great Britain during the Civil War', FO 881/4210, doc. 1.

II

There has been no shortage of studies of the international dimensions of the American Civil War, and particularly of Britain's role as a declared neutral. As early as 1925, Adams, born in the year the war ended, published *Great Britain and the American Civil War*, and throughout the ensuing decades there have been other large-scale works on its international aspects.⁶

More recently, the historiography of the Civil War has participated in scholarship's wider 'global turn': Coleman, reviewing in 2014 a collection of essays on the war's transnational meaning, observed that: 'Research into the global and transnational dimensions of the American Civil War is indisputably in vogue'.⁷ Nor is this surprising: the significance of the stance which Britain, in particular, would take was clear at the time to both warring parties, and especially to the Confederacy, which believed it held a trump card in its exports of raw cotton.⁸ The first, and fullest, exposition of the significance of 'cotton diplomacy' was Owsley's, who neatly demonstrated the Confederacy's delicate balancing act in attempting to withhold supplies from European markets, especially Britain, while earning some income and tantalizing customers with the promise of further supplies if only they would recognize the Confederacy (which none did).⁹

Historians have also sought explanations of the British government's attitude towards the belligerents in financial, economic, social, cultural, political, and wider diplomatic factors. Sexton's *Debtor Diplomacy* examined the impact of each belligerent's need to finance the war on their relations with Britain, where, predominantly, they sought the necessary funding.¹⁰ Naturally, the importance to north-west England's and the wider British economy of the Lancashire cotton-spinning industry has received a great deal of attention.¹¹ If, as Boaz suggests, the need for cotton led to 'apparent partiality' towards the Confederacy on the part of the British government, then abhorrence of slavery worked in the other direction.¹² Although it is often asserted that the aristocracy was less antagonistic towards slavery as an institution and generally more pro-Confederacy than the rest of the population (of those

⁶E. Adams, *Great Britain and the American Civil War* (2 vols) (New York, NY, 1925). Other works include: H. Jones, *Blue and gray diplomacy: a history of Union and Confederate foreign relations* (Chapel Hill, NC, 2010); A. Foreman, *A world on fire: an epic history of two nations divided* (London, 2010); D. Crook, *The North, the South and the powers, 1861–65* (New York, NY, 1974); B. Jenkins, *Britain and the war for the Union* (2 vols.) (Montreal, 1974).

⁷W. Coleman, review of D. Gleeson and S. Lewis, eds., *Civil war as global conflict: transnational meaning of the American Civil War* (Columbia, SC, 2014), in *Reviews in History* (review no. 1687), doi: 10.14296/RiH/2014/1687. Since Coleman's review, there has also appeared D. Doyle, *The cause of all nations: an international history of the American Civil War* (New York, NY, 2015).

⁸Lord Lyons (British minister in Washington, DC) to Russell, 18 Dec. 1860, London, TNA, 'US: Corres. Civil War in United States', Pt 1, FO 881/1047, doc. 12: 'In answer to all arguments, they [the secessionists] are apt to repeat their senseless cry that "Cotton is King".'

⁹H. Owsley, *King cotton diplomacy: Foreign relations of the Confederate States of America*, 2nd ed. (Chicago, IL, 1959).

¹⁰J. Sexton, *Debtor diplomacy: finance and American foreign relations in the Civil War era, 1837–1873* (Oxford, 2005).

¹¹There is a useful short discussion of the historiography on 'King Cotton' in D. Campbell, *English public opinion and the American Civil War* (Woodbridge, 2003), pp. 49–54.

¹²Boaz, *Guns for cotton*, p. 22.

who held any view on it at all), this was by no means universal.¹³ Indeed, some of the most prominent ‘establishment’ figures were strongly opposed to slavery, notably Palmerston himself and the duke of Argyll, his Lord Privy Seal.¹⁴ Nevertheless, in some quarters there was a degree of fellow feeling with the Confederacy, even if these romantic attachments to the ‘Cavalier’ South (as against the ‘Roundhead’ ochlocracy of the North) did not always survive close encounters with actual specimens of this twisted idyll: Mason, the Confederate commissioner in London, was ‘slovenly in dress and manners’.¹⁵

Notwithstanding the weight of scholarship which has been trained on British attitudes towards the Civil War belligerents, covering this wide array of possible motivating factors, Hopkins could nevertheless note in 2018 that the jury was still out: he refers to ‘the apparent ambivalence of British policy, which historians of the period have often found puzzling’.¹⁶ However, the default view remains that the British government and the British governing classes were pro-Confederacy. Boaz has been quoted above; McPherson avers that ‘Much truth also adheres to the notion of British upper-class support for the South – or at least hostility to the North, which amounted to almost the same thing’; Schama notes the government’s ‘pronounced partiality for a Confederate victory’.¹⁷

Turning to the efforts of the Confederates to obtain ships in Britain, there are three main strands in the historiography. The first comprises general accounts of the conflict on both sides of the Atlantic, including some of those referred to above (see note 6); these, while discussing shipbuilding, do not insist on its special significance to the question of Britain’s neutrality. Instead, they see it as one factor among many, and prefer to focus on other flashpoints in US–British relations (most notably, the *Trent* incident in late 1861) and/or on more generic factors.¹⁸ Jones, for example, in his book subtitled ‘The Crisis over British Intervention in the Civil War’, only briefly mentions the serious US–British standoff over shipbuilding, though both the *Florida* and the *Alabama* sailed, against vigorous US protests, in the period covered.¹⁹ In his other full-length treatment of the wider diplomatic battle which supported the war on the ground, Jones devotes some pages to the escape of the *Alabama*, rightly noting that ‘Dudley [Thomas H. Dudley, US consul in Liverpool] and Adams [Charles F. Adams, US Minister in London] had mishandled the process by failing to

¹³See, e.g., S. Beckert, *Empire of cotton* (London, 2014), p. 255 (although he cites only a prominent manufacturer’s view of the inevitability of Southern independence in support). But see also Campbell, *English public opinion*, esp. App. 2, pp. 250–1 (a list of known aristocratic sympathies).

¹⁴For Palmerston’s ‘vehement opposition to slavery and the slave trade’, see D. Brown, *Palmerston: a biography* (London, 2010), p. 240. For Argyll, see for example his letter to Gladstone of 23 Aug. 1861, in G. Douglas [8th duke of Argyll], ed. Dowager Duchess of Argyll, *The Duke of Argyll, autobiography and memoirs* (New York, NY, 1906), pp. 171–2.

¹⁵Doyle, *Cause of all nations*, p. 198.

¹⁶A. Hopkins, *American empire: a global history* (Oxford, 2018), pp. 217–18.

¹⁷Boaz, *Guns for cotton*, p. 22; J. McPherson, *Battle cry of freedom* (London, 1990), p. 551; S. Schama, *The American future: a history* (London, 2008), p. 90.

¹⁸In addition to the works cited in note 6 above, see B. Schoen, ‘The civil war in Europe’, in A. Sheehan-Dean, ed., *The Cambridge history of the American Civil War*, 3 vols. (Cambridge, 2019), II, pp. 342–66, doi:[10.1017/9781316650707.018](https://doi.org/10.1017/9781316650707.018).

¹⁹H. Jones, *Union in peril: the crisis over British intervention in the Civil War* (Chapel Hill, NC, 1992).

understand all the legal steps involved in detaining the vessel'.²⁰ (Dudley complained in a dispatch to Seward, the Secretary of State, that 'The burden of proof ought not to be thrown upon us'; instead, Laird's shipyard should have to prove *their* integrity. Adams's assessment of Dudley was that he was 'a little impulsive'.)²¹ Nevertheless, Dudley's persistence played an important role in persuading the British government to take the issue seriously. However, in a brief reference to what was in many ways the far more acute diplomatic crisis of summer 1863, which eventually led to the British government's detention of the Laird rams (two ironclad ships under construction at Laird's which were equipped with a ram with which to attack the blockading US fleet), Jones unaccountably fails to discuss the British government's legal embarrassment over the *Alexandra* earlier in 1863, without reference to which Russell's actions in the autumn of that year, already difficult to parse, become quite unintelligible.²²

The best discussion of Confederate shipbuilding in a general treatment of US–British diplomatic relations during the war remains that of Jenkins, in his two-volume *Britain and the War for the Union* (see note 6). His accounts of the seizures of the No. 290/CSS *Alabama* (section IV, below) and of the Laird rams are particularly thorough and include some original insights, such as the roles played by Dudley on the US side and Layard (Russell's deputy) on the British in the failure to handle the affair of the No. 290 expeditiously.²³ Jenkins is also right to insist on an element of continuity in British policy towards Confederate shipbuilding as opposed to a sudden *volte-face* in 1863; however, as this article will argue, he is much too generous in his assessment of the efficiency of the government apparatus – his claim that 'the British had acted with dispatch' in its attempts to seize the *Alexandra* and the *Japan*/CSS *Georgia* is particularly difficult to sustain – see section II, below).²⁴

The second strand in the literature largely takes its cue from the outrage the US government expressed throughout the war and mines the shipbuilding programme for evidence of the British government's Confederate sympathies, or argues, simply, that the fact that shipbuilding was 'allowed' to take place at all is *ipso facto* evidence of British 'guilt'.²⁵ (There are also some studies of local sentiment.)²⁶ This school of thought includes Doyle, who accuses the British government of 'utter disregard' of its own policy of neutrality in its failure to detain the CSS *Alabama* in July 1862 – 'Another ominous sign of British bias', in his judgement; Sexton, who refers to 'the British Government's *decision* to adopt a loose interpretation of its neutrality laws and allow British-built cruisers to fall into Confederate hands' (emphasis

²⁰Jones, *Blue and gray diplomacy*, p. 199.

²¹Dudley to Seward, 9 July 1862, London, TNA: 'US: Corres. "Alabama"', FO 881/2000/ Pt I, doc. 88; C. Adams, *Charles Francis Adams, Sr: the Civil War diaries*, 24 Sept. 1862 (unverified transcriptions; online), Massachusetts Historical Society, <https://www.masshist.org/publications/cfa-civil-war>, accessed 25 May 2023.

²²Jones, *Blue and gray*, pp. 199–200.

²³Jenkins, *War for the Union*, pp. 122–5.

²⁴*Ibid.*, p. 253.

²⁵McPherson refers to the 'willingness of British officials to apply a narrow interpretation of the Foreign Enlistment Act' (*Battle cry*, p. 547) (emphasis added).

²⁶See, for example, D. Pelzer, 'Liverpool and the American Civil War', *History Today*, 40 (1990), pp. 46–52; A. Goldsmith, 'Confederates on the Clyde', *History Today*, 48 (1998), pp. 45–50.

added); Cook, who is less temperate ('The Confederate commerce raiders were the most lurid, but not the only, example of the unneutral British acts and friendliness toward the South'); and Lester, who goes further in implying collusion between the governments: 'the Anglo-Confederate [sic] cruiser venture must be termed a success'.²⁷

The third, much smaller, group – those who have investigated the shipbuilding programme and questioned the claim that Britain sympathized with the Confederacy – is exemplified by two scholars: Myers, who reacts so strongly against it that he argues not only that Britain and the United States were on friendly terms throughout the war but that the two governments even *collaborated* in some respects; and Merli, who did most to examine the Confederate shipbuilding programme in any detail and who sounded a strong note of caution against the traditional view that the British government should be seen as covert allies of the Confederacy.²⁸ Myers, while issuing a refreshing counterblast to orthodoxy, surely goes too far in hypothesizing a level of collusion between the US and British governments. To Merli, all subsequent attempts to shed light on the Confederacy's attempts to obtain ships in Britain owe a debt. Broadly sympathetic to Britain and notably fair-minded, Merli had a particular object in mind: to undo, for an American audience, what he saw as the overly influential factual and interpretative errors of Adams, in particular, in respect of British neutrality in the war.²⁹

This article contends that the diplomatic exchanges between the US and British governments in respect of the Confederate ship procurement programme in Britain should be placed squarely at the centre of any discussion of British attitudes towards the belligerents.³⁰ The US protests about the Confederate activity constituted a running diplomatic engagement between the governments throughout almost the whole course of the war, in which – at times – the governments expressed themselves with considerable vehemence (more so, but not exclusively, on the US side), threatening on more than one occasion a rupture of diplomatic relations, even to the point of war.³¹ In particular, Confederate activity in Great Britain constituted the prime exhibit for the US government in its fury at what it regarded as Britain's serial failure to perform its obligations as a neutral.³² Although there were other diplomatic flashpoints – including blockade-running, the treatment of captured British seamen,

²⁷Doyle, *Cause of all nations*, pp. 220–1; A. Cook, *The Alabama claims: American politics and Anglo-American relations, 1865–1872* (Ithaca, NY, 1975), p. 16; Sexton, *Debtor diplomacy*, p. 147; R. Lester, *Confederate finance and purchasing in Great Britain during the American Civil War* (Charlottesville, VA, 1975), p. 87.

²⁸P. Myers, *Caution & cooperation: the American Civil War in British-American relations* (Kent, OH, 2008); F. Merli, *Great Britain and the Confederate Navy, 1861–1865* (Bloomington, IN, 1970, repr. 2004).

²⁹In the volume published posthumously as *The Alabama, British neutrality, and the American Civil War* (ed. D. Fahey) (Bloomington, IN, 2002), Merli returned to the attack against Adams (pp. 92–7).

³⁰There were no formal, and minimal unofficial, contacts between the Confederate representatives and British ministers.

³¹Most notoriously, but by no means exclusively, in Adams's so-called 'superfluous memorandum' (Adams to Russell, 5 Sept. 1863, London, TNA, 'US: Corres. Iron-Clad Vessels built at Messrs. Laird's Yard at Birkenhead', FO 881/2006, doc. 59).

³²One example, out of many: Adams to Russell, 30 Sept. 1862, London, TNA, 'US: Corres. "Alabama"', FO 881/2000/Pt 1, doc. 42: 'their [the US'] just claims on the neutrality of Great Britain have not been sufficiently estimated'.

the activities of British consuls in the Confederate States, and the occasional outbursts of violently expressed anglophobia by the US Secretary of State, William H. Seward, as well as the perennial maritime stumbling-block of the 'stop and search' of neutral vessels – none had the longevity or levels of hostility that were involved in the diplomatic wrangling over the ships.³³ The salience of the controversy for almost the whole of the war (indeed, even after it concluded) distinguishes it from the more notorious crisis over the *Trent* in November 1861, which was very serious while it lasted but was resolved by the turn of the year with the US government's effective climbdown.

A close reading of the diplomatic correspondence and the vast departmental paperwork which Adams's protests produced leads to four conclusions: first, that the British government responded with appropriate seriousness to Washington's complaints about the Confederates in British ports; second, that it did so from the outset and not, as is sometimes alleged, only after the escape of the *Alabama*; third, that the condition of the administrative apparatus at its disposal in large part accounts for the British government's failure to put a stop to the Confederates' activities; fourth, that the diplomatic row continued long after the Laird rams had been detained, and right until the end of the war, and beyond. The British government *did* make considerable, if disjointed, efforts to intervene; yet they often failed.

It is also true that the British government laboured under severe legal constraints in seeking to stop the Confederacy from acquiring warships in its territory.³⁴ For the British government to have the right, under the terms of the Foreign Enlistment Act 1819 (FEA), to intervene to prevent a ship from sailing, it needed to be satisfied on two points: the identity of the nation or belligerent for which the vessel was being built; and that the owners were in contravention of the act's injunction in section 7 not to 'equip, furnish, fit out, or arm' the vessel. As Crook points out, lawyers at the time argued that the original intention of the act had not been to prevent the supply of contraband to a belligerent (why should a ship be any different from a cargo of rifles and ammunition?) but 'to prevent armed vessels waging war immediately they had cleared port, thus transforming neutral territory into a base of military operations'.³⁵ It was not enough to know that a vessel was intended for *some* belligerent – the identity of the specific recipient must also be known.³⁶

³³See, for example, Seward to Dallas [then American Minister in London], 9 Mar. 1861, forwarded to Russell, 8 Apr. 1861, London, TNA: 'US: Corres. Civil War in United States, Part I', FO 881/1047, doc. 40.

³⁴For more detail on the FEA, see especially N. Arielli, G. Frei, and I. van Hulle ('The Foreign Enlistment Act, international law and British politics, 1819–2014', *The International History Review*, 38(4), pp. 636–56, <https://eprints.whiterose.ac.uk/92578/>); E. Chadwick, 'Back to the future: three civil wars and the law of neutrality', *Journal of Armed Conflict Law*, 1(1) (1996), pp. 1–31.

³⁵Crook, *North, South, and powers*, p. 259.

³⁶In the case of the *Ward Jackson* in 1863, the law officers initially opined that the master of the vessel could be proceeded against under section 6 of the FEA (for taking some volunteers to fight for Poland); however, they finally concluded that it would be necessary to prove that 'the military service intended was that of some particular State, or of some particular persons assuming to exercise the powers of Government' (TNA: 'Vessel "Ward Jackson": Possible Prosecution of the Master', TS 25/1256, 9 May 1863; TNA: 'Vessel "Ward Jackson": Further Case', TS 25/1263, 16 June 1863).

The ambiguity of the law which offered the only legal means for the British government to intervene had a wide significance, especially diplomatically: the US government clearly believed that Russell was hiding behind the uncertainty in order to do what he wanted – to be helpful to the Confederacy.³⁷ For present purposes, the legal dilemma had two consequences. First, it underpinned the hesitant and divided response of British ministers to US demands to shut down the Confederate ship-building programme, which in turn may well have contributed to the stumbling administrative response.³⁸ Second, the state of the law was well-known to James D. Bulloch, the principal Confederate agent in Liverpool, from the outset. He carefully took legal advice before starting his work to build a navy in British shipyards.³⁹ As we have seen, Dudley, Bulloch's antagonist, though himself a lawyer, seemed slow to grasp the implications of the act. However, notwithstanding these legal uncertainties, ministers came very close, as will be seen, to testing the law in July 1862, in relation to the *Alabama*; when they did finally pluck up courage to go to court, in the case of the *Alexandra* (detained in April 1863), the government lost the case hands down.⁴⁰

The principal sources used are the letters and memoranda which passed between Adams, the US minister in London, and Lord John (from 27 July 1861, Earl) Russell, the British foreign secretary, and British civil service interdepartmental letters and memoranda which fed into the official advice to Russell; correspondence between Adams and Dudley, in Liverpool; internal Confederate communications, particularly between Secretary of the Navy Stephen R. Mallory and Bulloch; dispatches to and from US Secretary of State Seward; correspondence between ministers; and Adams's diary.⁴¹

Bulloch arrived in Liverpool in September 1861, with a commission from Mallory to procure ships for the fledgling Confederate navy.⁴² Dudley ensured that Bulloch

³⁷See, for example, Adams to Russell, 9 Oct. 1862, TNA: 'Alabama', FO 881/2000/ Pt I, doc. 45 (in response to Russell's statement that he could not 'go beyond the law': 'I beg to remind your Lordship that I base [these representations] upon evidence which applies directly to infringements of the municipal [i.e. national, as opposed to international – he means the FEA] law itself', and that to fail to apply the law would give the US government 'serious ground of remonstrance' (quoting from Counsel's Opinion).

³⁸If for no other reason than that Russell repeatedly returned to the law officers for further advice as new information became available. He also had to contend with conflicting advice from customs and from the law officers (see section IV on CSS *Alabama*).

³⁹'at a very early day after my arrival in England I took legal advice' (from a local lawyer, F. S. Hull) (J. Bulloch, *The secret service of the Confederate States in Europe* (New ed.) (New York, NY, 1959), p. 65).

⁴⁰See section III and note 59.

⁴¹Copies of the Adams–Russell correspondence are held in the UK's National Archives, as are British departmental memoranda and some internal US documents when these were forwarded by Adams to Russell; manuscript copies of some correspondence (e.g. between ministers and between Russell and the Washington legation) are also available (both in the UK National Archives). Confederate States Navy correspondence may be found in the United States Office of Naval Records and Library, *Official Records of the Union and Confederate Navies in the War of the Rebellion*, <https://babel.hathitrust.org/cgi/pt?id=coo.31924051367047> ('ORUCN'). For Adams's diary, see note 21 above.

⁴²Mallory to Bulloch, 9 May 1861, Washington DC, ORUCN, Ser. II, Vol. 2, p. 64.

was watched closely from the moment he arrived.⁴³ Bulloch's strategy was not to engage only in a covert battle in which the far superior resources of the US government would be bound to overwhelm him, but instead as far as possible to ensure that he stayed within (an interpretation of) the FEA (viz. by ensuring that his warships left British ports unarmed – by, for example, having gun ports and mounts but no guns, which were shipped separately to a rendezvous outside British waters).⁴⁴ Bulloch had an additional reason to act cautiously: when he arrived in Britain, the Confederacy had high hopes of securing recognition as an independent state by the British government; a brazen disregard for English law would have risked drawing diplomatic censure. Bulloch's caution had an important consequence: it meant that there was no pressure on the British government to take any formal cognizance of his activities. It was not until the US government's representatives drew its attention to Bulloch's schemes that the British government had to react. From Adams's arrival as US minister in May 1861, throughout the rest of the year and into the spring of 1862, US diplomatic protests focused principally on blockade-running, in particular shipments of weapons and munitions, and on the broader diplomatic questions of the precise nature of British neutrality. Then, on 18 February 1862, Adams made his first representation to Russell, enclosing material from Dudley, about the construction of a vessel 'intended for the Southern Confederacy'.⁴⁵ Neither man could have imagined that the process of diplomatic claim and counter-claim would continue for a decade.⁴⁶

III

'When Sir Charles Trevelyan and Sir Stafford Northcote referred in their famous report of 1853 to the British Civil Service, they were undoubtedly indulging in wishful thinking.'⁴⁷ It would be similarly fanciful to believe that any significant reforms, following publication of the Northcote-Trevelyan report, had actually taken place by the first half of the 1860s. As Southgate notes, in a discussion of 'the Whig reputation for administrative ineptitude', Russell 'associated himself with the officials who criticised the report and resisted its implementation'.⁴⁸ In any case, he continues, 'no government before that date [1867] accepted either the indiscriminate strictures or the principal proposals of the report'.⁴⁹ Hoppen's judgement is even

⁴³Bulloch, *Secret Service*, p. 227. See also D. Milton, *Lincoln's spymaster: Thomas Haines Dudley and the Liverpool Network* (Lanham, MD, 2003); W. Wilson and G. McKay, *James D. Bulloch: Secret agent and mastermind of the Confederate Navy* (Jefferson, NC, 2012).

⁴⁴In the case of the *No. 290/Enrica*, for example, it met a supply ship in the Azores and was there commissioned as the *CSS Alabama* (see Bulloch, *Secret service*, pp. 254–6, and R. Semmes, *Memoirs of service afloat*, Baltimore, MD: Kelly, Piet & Co. (1869), pp. 409–13).

⁴⁵Adams to Russell, 18 Feb. 1862, London, TNA, 'US: Corres. "Florida"', FO 881/2011, doc. 1. The vessel referred to was known on its departure from Liverpool as the *Oreto*, before being commissioned, outside British waters, as the *CSS Florida*.

⁴⁶Until the conclusion of the Geneva Arbitration Tribunal in 1872 (see below).

⁴⁷J. Hodgetts, 'Unifying the British Civil Service: some trends and problems', *Canadian Journal of Economics and Political Science*, 14 (1948), pp. 1–19, at p. 1. The 'Northcote-Trevelyan Report', commissioned in 1853, was officially the *Report on the Organisation of the Permanent Civil Service* (London, 1854).

⁴⁸D. Southgate, *The passing of the Whigs, 1832–1886* (London, 1962), p. 203; *ibid.*, p. 204.

⁴⁹*Ibid.*, p. 206.

more stark: 'almost until the end of the century, the picture is one of a bureaucracy gently ossifying, keeping its head down, and concerning itself primarily with pushing out again the paper that was coming in'.⁵⁰ It is accordingly not surprising that Horace Mann, the founding secretary of the civil service commission, should still be found, in 1868, describing the civil service as 'a chaotic mass of unorganized elements ... an aggregation of separate departments governed, in many points, by no principle'.⁵¹ The service of the early to mid-1860s therefore still puts one irresistibly in mind of Dickens's satirical portrait of self-serving, sclerotic bureaucracy, Tite Barnacle's Circumlocution Office in *Little Dorrit*, serialized from 1855 to 1857.⁵² The Dickensian flavour of the Foreign Office at this time is further enhanced by the fact that Edmund Hammond, the official chief of the department, was the youngest son of George Hammond, himself a former permanent under-secretary of the same department.⁵³ Hammond *filis* served there for a total of forty-nine years (including, in his youth, some overseas postings), the last nineteen as its official head. He is described by the historians of that post as having a reputation as a martinet who 'stressed the need for the close adherence to certain established rules of procedure'.⁵⁴ His memorandum on the correct manner of dealing with correspondence became known as 'The Adventures of a Paper in the Foreign Office'.⁵⁵

Finally, before examining how the government machinery handled the apparent (but by no means clear) affront to the FEA which Confederate commissioning of ships from British shipyards presented, it is important to keep in mind the prevailing orthodoxy in regard to relations between government and commerce. Although it is possible, as Hoppen points out, to overstate the Whig-Liberal commitment to laissez-faire policies – Russell himself had supported some interventionist measures in the course of his career – nevertheless, government's default position was not to interfere in commercial decisions without very good reason.⁵⁶ Russell made this point to Adams on more than one occasion: for example, he told him that 'when Her Majesty's Government are asked ... to overstep the existing powers given them by municipal and international law for the purpose of imposing arbitrary restrictions on the trade of Her Majesty's subjects, it is impossible to listen to such suggestions'.⁵⁷ Montague Bernard, the Oxford professor who took on the role of apologist for the British government, put it this way: 'A State is responsible generally for the unlawful acts of its subjects, but for such acts only as it can prevent – and prevent without vexatious and oppressive interference, without imposing undue trammels on personal liberty and the freedom to trade'.⁵⁸ In fact, under intense US diplomatic pressure the

⁵⁰K. Hoppen, *The mid-Victorian generation: England, 1846–1886* (Oxford, 1998), p. 111.

⁵¹H. Mann, 'Some statistics relating to the civil service', *Journal of the Statistical Society of London*, 31 (1868), p. 414, cited in Hodgetts, 'Unifying the civil service', n. 2.

⁵²The office is introduced in Chapter X of Book I, 'Containing the whole science of government'.

⁵³K. Neilson and T. Otte, *The Permanent Undersecretary for Foreign Affairs, 1854–1946* (New York, NY, 2011), p. 5.

⁵⁴*Ibid.*, p. 9.

⁵⁵*Ibid.*, p. 10.

⁵⁶Hoppen, *Mid-Victorian generation*, pp. 94–5.

⁵⁷Russell to Adams, 6 May 1862, London, Cmnd Paper 3128, Vol. LXII, *North America*. No. 6 (1863),

'Correspondence with Mr. Adams respecting neutral rights and duties', p. 457.

⁵⁸M. Bernard, *A lecture on alleged violations of neutrality by England in the present war* (London, 1863), p. 30.

government did, arguably, seek to 'impose trammels' on business when it impounded the *Alexandra* in 1863 and – against the advice of its law officers – detained the Laird rams that autumn. A jury in the court of the exchequer took only a few minutes to overturn ministers' actions in respect of the *Alexandra*, and a similar fate for the rams was probably avoided only by the government's purchase of them.⁵⁹ The point to be made here is that, while ministers did buckle at times under US pressure, the default option, at both official and political levels, was not to intervene.

It is against this background that an assessment of the performance of British officialdom's handling of the US protests against Confederate shipbuilding must be made. The reader of the official correspondence which Adams initiated by his continued, vehement protests against the Confederates' activities is struck first by its sheer volume. Each vessel of which complaint was made generated its own mountain of inter-departmental paperwork, to which must be added the correspondence and despatches between the metropole and its colonies and its diplomatic outposts overseas, not to mention the correspondence between the US and British governments in both Washington (between Seward and Lord Lyons, the British minister, or the chargé d'affaires, Stuart) and London (between Adams and Russell). To give one indication, the diplomatic row over the treatment of the CSS *Shenandoah* in Melbourne, Australia, in the closing months of the war later produced sixty-six printed pages, embracing 116 enclosures together with the main memoranda.⁶⁰

The civil service responded with what appeared to Adams to be infuriating lethargy.⁶¹ On each occasion that Russell received a formal complaint from Adams that another Confederate warship was under construction or, later, being procured, he asked Hammond to pass on the correspondence to the Treasury, who had responsibility for customs matters (who in turn oversaw the administration of ports). Hammond in each case initiated the same series of elaborately courteous memoranda from one department to another. So, when Adams raised with Russell the matter of the *Oreto* (later, CSS *Florida* – Bulloch was careful to arm and commission his warships beyond British territorial waters), on the following day Hammond wrote to his opposite number at the Treasury with no great sense of urgency or expectation of a reply: 'I am to request that you will move the Lords Commissioners of the Treasury to cause immediate inquiries to be made respecting this vessel, and to take such steps in the matter as may be right and proper.'⁶² The Lords Commissioners then sent on the correspondence to the commissioners of customs, who communicated in turn with the local customs officials in Liverpool, enabling the commissioners to respond to the Treasury on 22 February with the falsely reassuring information that the vessel 'is intended for the use of Messrs. Thomas, Brothers, of Palermo' (the cover which

⁵⁹For the court case, see Court of Exchequer, *The Alexandra: Attorney General v Sillem and Others, Liverpool: 'Albion' Office* (1863); the law officers' initial Opinion (later reiterated) on the rams is in Law Officers to Russell, 24 July 1863, TNA, 'Iron-clad vessels', FO 881/2006, doc. 13.

⁶⁰London, TNA, 'US: Corres. "Shenandoah"', FO 881/2014, doc. 24 and enclosures.

⁶¹See, for example, Adams to Russell, 4 Sept. 1862, TNA, 'US: Corres. "Alabama"', FO 881/2000/Pt 1, doc. 34, complaining about the slowness of response to his complaints about the *Alabama*.

⁶²Hammond to Hamilton, 19 Feb. 1862, TNA, 'Florida', FO 881/2011, doc. 2.

Bulloch had fabricated to avoid linking the vessel to the Confederacy).⁶³ This was then forwarded to the Foreign Office, completing the return of the correspondence to its starting point. Russell reassured Adams, who was not in the least pacified, of the vessel being intended for the Italian government.⁶⁴ Four months later, the same laborious procedure was put into operation to handle Adams's complaint about No. 290 (later the CSS *Alabama*), then on the stocks at Laird's shipyard in Birkenhead. Russell responded to Adams with the no doubt far from satisfactory response that the matter had been referred to the 'proper Department'.⁶⁵ Once again, Hammond invited the Treasury to 'take such steps in the matter as may be right and proper'.⁶⁶ A year later, when Adams opened his campaign to prevent the Laird rams from sailing, and even after the anguish and embarrassment created by the escape of the *Alabama*, the bureaucracy went through the same laboured process of polite inter-departmental memoranda.

The lack of an effective administrative infrastructure is illustrated by the semi-comic attempts to detain the *Alexandra* in April 1863, especially in light of the abortive move to prevent the *Alabama* from sailing nine months earlier (see section IV, below). Hammond at the Foreign Office authorized its seizure on Saturday, 4 April.⁶⁷ Sir Thomas Fremantle, chairman of the customs board, was not in London, so the letter was passed to Berkeley, his deputy, at midnight on Saturday. When he went to the Knightsbridge and Regent Street telegraphic offices, he found them, perhaps unsurprisingly in the early hours of Sunday morning, closed. After what one can only imagine was a disturbed night, at 'shortly after eight o'clock' he went to the homes of both Hamilton and Peel (from the Treasury) but found them also 'out of town'. Finally, presumably now at his wits' end, he summoned the courage 'to telegraph to the collector [of customs] at Liverpool, directing the seizure of the vessel'.⁶⁸

Another feature of this rigidly formulaic approach to handling business was a lack of willingness to think beyond the narrow confines of what was expected. The reader of the inter-departmental correspondence quickly develops a picture of the individual bureaucrat for whom it was essential to fulfil precisely what was expected of him, but no more. At times, it is difficult to know whether to ascribe a failure to act to laziness, incompetence, or a fear that to display initiative would be unwelcome to one's superiors.⁶⁹ A classic example of failure to ask the right questions is provided by the Admiralty's role in the sale (indirectly) of HMS *Victor* to the Confederacy in November 1863. When the former Royal Navy warship reappeared shortly after her sale as the CSS *Rappahannock*, having never left the confines of the Sheerness naval dockyard, an embarrassed Russell had to institute enquiries as to how this could have

⁶³Fremantle and Berkeley to Lords Commissioners of the Treasury, 22 Feb. 1862, TNA, 'Florida', FO 881/2011, doc. 4, encl. 4. The Oretto was – and is – a river in Sicily (a nice touch by Bulloch). However, see the end of Section V for Russell's belated follow-up on the *Oreto*.

⁶⁴Russell to Adams, 26 Feb. 1862, TNA, 'US: Corres: "Florida"', FO 881/2011, doc. 5.

⁶⁵Russell to Adams, 25 June 1862, TNA, 'Alabama', FO 881/2000/Pt 1, doc. 2, in response to Adams's letter of 23 June (*ibid.*, doc. 1).

⁶⁶Hammond to Hamilton, 25 June 1862, TNA, 'Alabama', FO 881/2000/Pt 1, doc. 3.

⁶⁷In a letter to the Treasury, responsible for customs (Hammond to Hamilton, 4 Apr. 1863, London, TNA, 'US: Corres: "Alexandra"', FO 881/2007, doc. 9).

⁶⁸Gardner to Hamilton, 6 Apr. 1863, TNA, 'Alexandra', FO 881/2007, doc. 12, encl. 1.

⁶⁹The question of bias is discussed below.

happened. It did not then take very long for a police inspector to establish that the nominal purchasers, acting as intermediaries for the Confederacy, 'occupy one room only as an office' and 'have been there about nine months, and are supposed to be general shipping agents'.⁷⁰ Some basic due diligence would have established that the nominal purchasers were unlikely to be *bona fide* shipbrokers or financial agents.

The nadir of bureaucratic incompetence was reached in the handling of the US protests against the *Alabama*, though the failed attempt to apprehend the *Georgia* ran it a close second. The *Georgia* (alias *Japan*, alias *Virginia*, acquired by the Confederates in Glasgow) is a particularly interesting case study: it both gives the lie to the claim that the British government showed little interest in restricting Confederate activity and demonstrates its quite startling incompetence in doing so. The events took place at almost the same time as the seizure of the *Alexandra* – there can be no doubting the British government's resolve not to allow another *Alabama* to sail. It all started so well: on the same day (8 April 1863) that Russell received a letter from Adams containing allegations against the vessel, with unwonted alacrity ('within half an hour', boasted Hammond to Adams) the Foreign Office had passed it to the Home Office, which dispatched a letter to Slade, the lieutenant governor of Guernsey, responsible for Alderney. It was believed that the *Japan/Virginia* would there receive its armament from the *Alar*, out of Newhaven.⁷¹ Regrettably, as a shamefaced official had to admit on 11 April, forwarding the letter to Slade, the letter had initially been sent in error to the Isle of Man, from where it had been 'returned to sender'.⁷² In an effort to make up for lost time, Berkeley at customs, whose second consecutive weekend was thus ruined, telegraphed his local man in Plymouth, but a follow-up communication was delayed by the fact that the telegraph office in Plymouth remained closed until 5pm on Sundays. All of this was, in any case, moot, since the *Alar* had already transferred its cargo to the *Japan/Virginia* (now commissioned as CSS *Georgia*) on 8 April, though not in fact on Alderney but off the French coast at Morlaix, near Brest.⁷³

IV

In the case of the vessel which became the CSS *Alabama* and the greatest source of friction between the governments, the United States' initial approaches to the British were relatively muted. There appears to have been some delay in bringing the matter to the attention of the British authorities: Dudley reported the building of the ship to Seward on 16 May 1862, but it is not clear when he told Adams, who only made representations to Russell on 23 June.⁷⁴ On this occasion, Russell

⁷⁰'Detective Officer [Williamson]'s Special Report', 4 Dec. 1863, London, TNA, 'US: Corres. Purchase of "Rappahannock" from HMG by Agents of Confederate States', FO 881/1281, doc. 23, encl. 1.

⁷¹Letter from Adams: Adams to Russell, 8 Apr. 1863, London, TNA, 'US: Corres. "Georgia"', FO 881/2005, doc. 1; the 'half hour' boast, *ibid.*, doc. 2; Waddington (HO) to Maj.-Gen. Slade (Guernsey), 8 Apr. 1863, *ibid.*, doc. 6, encl. 1.

⁷²Waddington to Slade, 11 Apr. 1863, TNA, 'Georgia', FO 881/2005, doc. 12, encl. 1. The Home Office, then as now, had responsibility for the Crown dependencies of the Channel Islands and the Isle of Man.

⁷³Consul Clipperton (Brest) to Earl Granville, 9 Sept. 1871, TNA, 'Georgia', FO 881/2005, doc. 22 (part of the evidence gathering for the Geneva Tribunal).

⁷⁴Dudley to Seward, 16 May 1862, TNA: 'Alabama', FO 881/2000 Pt I/Annex, p. 71; Adams to Russell, 23 June 1862, enclosing Dudley to Adams, 21 June 1862, TNA, 'Alabama', FO 881/2000/Pt 1, doc. 1.

sought advice from the government's law officers as well as asking customs (via the Treasury) to investigate. The law officers (Sir William Atherton, attorney general, and Sir Roundell Palmer, solicitor general) advised Russell on 30 June that, if Dudley's assertions (contained in the enclosures to Adams's letter to Russell) were accurate, then there would appear to be a breach of the FEA. They advised that customs officers at Liverpool should investigate and that Dudley should send them his evidence.⁷⁵ Dudley did so, and the solicitor to the commissioners of customs, Hamel, issued an Opinion on 11 July, in which he said that 'the statement ... [in] greater part, if not all, is hearsay and inadmissible ... there is nothing in it amounting to *prima facie* proof sufficient to ... justify the seizure of the vessel'.⁷⁶ Dudley did not give up in the face of this discouraging response but presented further evidence, and on 23 July his solicitor, Squarey, sent additional affidavits and an Opinion from counsel (Collier) directly to the commissioners of customs, and Adams sent the same material to Russell.⁷⁷ Layard, Russell's deputy, again sought advice from the law officers.⁷⁸ The papers were passed to Sir John Harding, the queen's advocate, who, suffering from some form of serious mental ill-health, was unfit to look at the papers; it was not until 28 July that they were passed on to the attorney and solicitor general. They concluded on the following day that there were *prima facie* grounds for detention of the ship.⁷⁹ On the next day Layard wrote to the Treasury, and on 31 July they confirmed to him that his letter had been forwarded to the commissioners of customs 'with directions to take the necessary steps for seizing the vessel'.⁸⁰ In the meantime, however, Bulloch, according to his memoirs, 'had received information [on 26 July] from a private but most reliable source, that it would not be safe to leave the ship in Liverpool another forty-eight hours'.⁸¹ It took slightly longer than that to have everything ready, but the vessel, known at launch as the *Enrica*, sailed – ostensibly for a sea-trial but in fact never to return – on 29 July, two days before the order to detain was received by customs officials in Liverpool.⁸²

While a great deal of attention has been directed at the source of the warning of the impending detention of the vessel, the significant conclusion to be drawn from the handling of Adams's complaint from 23 June onward is surely the lack of

⁷⁵Law Officers to Russell, 30 June 1862, TNA, 'Alabama', FO 881/2000/Pt 1, doc. 5.

⁷⁶'Report from the Solicitor of Customs (Hamel)', 11 July 1862, TNA, 'Alabama', FO 881/2000/Pt 1, doc. 10, encl. 1.

⁷⁷Adams to Russell, 22 July 1862, TNA, 'Alabama', FO 881/2000/Pt 1, doc. 15; Squarey to Commissioners of Customs, 23 July 1862, *ibid.*, doc. 16.

⁷⁸*Ibid.*, doc. 14.

⁷⁹*Ibid.*, doc. 24.

⁸⁰Hamilton to Layard, 31 July 1862, in K. Bourne and D. Cameron Watt (eds), *British documents on foreign affairs: reports and papers from the Foreign Office Confidential Print, Part I, Series C, North America, 1837–1914*, 6 vols. (Bethesda, MD, 1986), VI, doc. 82, p. 69.

⁸¹Bulloch, *Secret service*, p. 238.

⁸²There is a short but useful discussion of the circumstances surrounding the escape of the *Alabama* in A. Whitridge, 'The Alabama 1862–64: a crisis in Anglo-American relations', *History Today*, 5 (1955), pp. 174–85, and in Merli, *Confederate Navy*, pp. 89–93.

urgency and considerable ineptness of the administrative response.⁸³ This is especially true given the law officers' initial disposition to treat the complaint seriously; their Opinion suggested that a prosecution might well follow. However, the British government contrived to snatch what turned out to be a very expensive defeat from the jaws of victory, for the following reasons.⁸⁴ First, Russell, having taken the significant step of involving the government's senior legal advisers at an early stage, then appears to have taken a back seat at a most inopportune moment. Precious time passed while matters were left in the hands of the customs department, and it was Layard who acted for the Foreign Office at the climax of the crisis. Second, the suggestion made in the legal advice that an investigation should be undertaken by local customs officials in Liverpool was not acted upon. This meant that when Hamel and O'Dowd, the solicitors at customs, were asked for their views some ten days later, they had to rely on the affidavits obtained by Dudley who, partly in order to protect his informants, was unable to provide testimony of sufficient strength to satisfy them. Third, the failure to seek the advice of the senior law officers at this stage was a blunder. It may of course have been the case that they would not, on 11 July, have reached the conclusions that they did on 29 July, when further evidence and Collier's Opinion were also available; but given the tenor of their own initial Opinion on 30 June, it is at least possible that the law officers would have sanctioned detention at that point.⁸⁵ Fourth, although the illness of Harding was unfortunate, it is extraordinary that five days passed before the papers were retrieved, apparently on the initiative of Lady Harding, and sent to the attorney and solicitor generals for comment. Fifth, even when the law officers had given their Opinion, it took two days of the usual inter-departmental correspondence for the decision to detain to be communicated to Liverpool – though it would almost certainly have been too late in any case, as the *Enrica/Alabama* sailed on the day that the law officers pronounced. Finally, there was the 'leak', which, if not deliberate, was unforgivable incompetence.⁸⁶ Taken together, the civil service's handling of this crucial episode betrays many of the faults previously identified: departments acting in what would now be termed 'silos'; a firm resolve to follow procedures at a predetermined pace and with no urgency; no sense of the bigger picture; and, linked to that, the lack of a directing central agency to ensure a timely, coordinated government response.

V

The failure to prevent the *Enrica/Alabama* from sailing also raises the question – not only because of the warning issued to Bulloch – about the reliability of individual

⁸³Proposed sources of the leak include: Squarey, Dudley's lawyer (D. Maynard, 'Plotting the escape of the Alabama', *Journal of Southern History*, Vol. XX (1954), p. 204); Layard (D. Mahin, *One war at a time: the international dimensions of the American Civil War* (Dulles, VA, 1999), pp. 150–1); and Buckley, a foreign office clerk (Brooks Adams, quoting from his father's diary from Dec. 1865, names the legation secretary Benjamin Moran as the source of the claim: B. Adams, 'The seizure of the Laird rams', *Proceedings of the Massachusetts Historical Society*, Vol. 45 (1911), p. 259, n. 2). It is perhaps noteworthy that Bulloch still declined to identify the source in his memoir twenty years after the event, suggesting a prominent and/or still living person.

⁸⁴See below for a discussion of the issue of compensation.

⁸⁵Collier turned gamekeeper in October 1863, when he was appointed solicitor general.

⁸⁶A 'leak inquiry' was in fact instituted, albeit more than a year later, with the time-honoured result on such occasions – no culprit was identified.

officials and whether their personal sympathies impaired the performance of their duties. As already noted, the limited scope of bureaucracy in the 1860s meant that the leading figures in a government department, situated in London, were highly dependent on the efficiency and integrity of local officials. The question of collusion arose directly in the purchase of the CSS *Rappahannock*, where a number of dockyard personnel were involved in helping to fit out the ship, which had been sold by the Royal Navy without its mast, spars, and sails, and without 'pivots and other fittings for her guns'.⁸⁷ The degree of co-operation offered by dockyard personnel ranged from Rumble, HM Inspector of Machinery Afloat at Sheerness (against whom the law officers approved a prosecution under the FEA), through various labourers and boilermakers who sailed on the *Rappahannock* when she left the dockyard hurriedly on the night of 24 November 1863 (and were discharged from the service as a result), to Rees, the master rigger, who left on board the ship but then returned on the tug (and who may therefore have been taken along involuntarily) and Capt. Hall of the *Cumberland*, who was 'glad of an opportunity of testing the derrick' and assisted in masting the ship.⁸⁸ The report by Inspector Court of the water police went so far as to suggest that work on the vessel took place 'with the sanction of the dockyard authorities, at other than dockyard hours'.⁸⁹ Adams also alleged official involvement: 'I am forced to the conclusion that the entire movement has been conducted with the connivance and direct aid of Her Majesty's Officers stationed within the Royal Dockyard of Sheerness'.⁹⁰

The problems arising from reliance on local officials were most acute in the case of Liverpool, which was notorious for its widespread Confederate sympathies.⁹¹ As Bulloch, who was by far the most effective agent for the Confederacy, was based there, it was from that quarter that many of the problems arose for the British government. The two officials on whom the customs department most relied were the collector, Samuel Price Edwards, and the surveyor, Edward Morgan. Certainly Edwards did not distinguish himself by demonstrating an energetic approach to his duties.⁹² When enquiries had to be made about the *Oreto* (*Florida*), he appears to have accepted everything that Miller & Sons, the shipyard owners, told him. He assured his superiors that 'he [had] every reason to believe that the vessel is for the Italian

⁸⁷Russell to Lyons, 28 Nov. 1863, London, TNA, 'Rappahannock', FO 881/1281, doc. 5; fittings for guns, Romaine (Secretary of the Admiralty) to Hammond, 4 Dec. 1863, *ibid.*, doc. 23.

⁸⁸Proceedings approved against Rumble: 'Opinion of law officers', 6 Jan. 1864, London, TNA, 'Ship's departure: Outfitting and departure from Sheerness of the Rappahannock', TS 25/1302; discharge of dockyard workmen, Romaine (Secretary of the Admiralty) to Hammond, 4 Dec. 1863, TNA, 'Rappahannock', FO 881/1281, doc. 23; Rees, *ibid.*, but note, *per contra*, 'Report of Inspector Court of the water police', *ibid.*, doc. 11, encl. 2, alleging that the ship had 'been rigged by the foreman of riggers of the dockyard'.

⁸⁹See preceding footnote.

⁹⁰Adams to Russell, 23 Dec. 1863, London, TNA, 'Ship's departure', TS 25/1302, enclosed in letter from Waddington (HO) to Greenwood (for Law Officers), 28 Dec. 1863.

⁹¹However, for a balanced assessment of Liverpool's role vis-à-vis the Confederacy, see Pelzer, 'Liverpool'.

⁹²Adams believed that Edwards was 'more or less in direct sympathy with the designs of the insurgents, and not unwilling to accord to them all the indirect aid which could be supplied by a purely passive policy on his part' (*Papers relating to the foreign relations of the United States, transmitted to Congress with the annual message of the President*, 2 Dec. 1872, Pt II, Vol. IV, Doc. 38 ('Opinion of Mr Adams'), p. 177, <https://history.state.gov/historicaldocuments/frus1872p2v4/d38>, accessed 30 Oct. 2023).

Government'.⁹³ Similarly, when attention turned later in spring 1862 to the No. 290 (*Alabama*) in Laird's shipyard, Morgan replied complacently to his superiors that 'as yet, nothing has transpired concerning her which appeared to demand a special report'; in any case, Laird's 'do not appear disposed to reply to any questions respecting the destination of the vessel after she leaves Liverpool, tho' she has been built for a foreign government'.⁹⁴ With remarkable confidence, Edwards asserted that the shipbuilders were unlikely to breach the FEA.⁹⁵

Edwards was, from his vantage point as the chief representative of the customs department in Liverpool, a perpetual stumbling-block in the path of the US government's attempts to have ships detained.⁹⁶ In the case of the *Alexandra*, he did in fact initially acknowledge that the ship appeared to be intended for the Confederacy.⁹⁷ However, following the decision to detain the ship, he could not resist making his own commentary on it. He pointedly observed to Goulburn (a customs commissioner) that: 'The vessel will not be fit for sea for a fortnight, at least ... there is nothing to denote that she is to carry guns, save her strength in point of construction.' He then asked: 'If registered and duly cleared [to leave port], is she detainable, having, as yet, committed no offence against any law, so far as I am competent to judge?'⁹⁸ It may be, however, that Edwards's somewhat petulant response to his orders respecting the *Alexandra* raised a question mark about his allegiances in London when the next controversy arose, over the Laird rams.⁹⁹ On this occasion, Edwards sent off to headquarters his opinion that the ships were "'built for a banker at Paris" [Bravay] but that this banker was paying for them, "on behalf of a foreign Government, and not America"; however, the law officers noted that Edwards had not 'satisfactorily explained the grounds' for this statement, and that a subsequent claim of his in respect of the role of M Bravay was at variance with the statement of Wilding, the US vice-consul in Liverpool.¹⁰⁰ Russell had evidently had enough of relying on Edwards as the government's 'eyes and ears' in Liverpool. Two days after receiving the law officers' discouraging assessment of the evidence against the rams, Russell asked 'that the Lords of the Treasury should send their solicitor to Birkenhead to enquire whether evidence cannot be procured against these vessels'.¹⁰¹

Having recounted a sorry tale of administrative failure, it would be wrong to complete this survey without looking at the considerable lengths to which, on some

⁹³Fremantle and Berkeley to Lords Commissioners of the Treasury, 22 Feb. 1862, TNA, 'Florida', FO 881/2011, doc. 4, encl. 1.

⁹⁴Report of E. Morgan, enclosed in Hamilton to Hammond, 2 July 1862, TNA, 'Alabama', FO 881/2000/Pt 1, doc. 6, encl. 1.

⁹⁵Edwards to Commissioners of Customs, 10 July 1862, TNA, 'Alabama', FO 881/2000/Pt 1, doc. 9.

⁹⁶Adams certainly thought so: TNA, 'Laird rams', FO 881/2006/82, Adams to Russell, 16 Sept. 1862.

⁹⁷Edwards to Commissioners of Customs, 28 Mar. 1863, TNA, 'Alexandra', FO 881/2007, doc. 4, encl. 2.

⁹⁸Edwards to Goulburn, 5 Apr. 1863, TNA, 'Alexandra', FO 881/2007, doc. 12, encl. 2.

⁹⁹In fact, while the *Alexandra* was still under investigation, London attempted to widen its sources of information in Liverpool by involving the mayor of the city: H. Bruce (HO) to Mayor of Liverpool, 1 Apr. 1863, TNA, 'Alexandra', FO 881/2007, doc. 5, encl. 1.

¹⁰⁰Law officers to Russell, 20 Aug. 1863, TNA, 'Iron-clad vessels', FO 881/2006, doc. 29. Bravay, a Frenchman, was represented to be the owner of the vessels, allegedly as an intermediary for the Pasha of Egypt.

¹⁰¹Murray to Hamilton, 22 Aug. 1863, TNA, 'Iron-clad vessels', FO 881/2006, doc. 31.

occasions, some officials, and their political masters, went to act responsibly and to take the US government's complaints seriously. Although, as we have seen, the local officials at Liverpool did not distinguish themselves in the performance of their duties and may have personally sympathized with the Confederates, nevertheless there are many instances which demonstrate a serious intent on the part of the administration to respond appropriately to the concerns raised by Adams.¹⁰² In the case of the *Oreto* (Florida), for example, the first warship of which the United States complained, the commissioners of customs informed the Treasury that 'special directions have been given to the officers at Liverpool to watch the movements of the vessel'.¹⁰³ More importantly, Russell caused enquiries to be made in order to check the story that the Italian government was involved.¹⁰⁴ (Russell played a similarly important role in testing the Confederates' cover story for the Laird rams, taking the initiative to check with the British ambassador in Paris and the consul in Alexandria whether in fact M. Bravay was acting for the Pasha of Egypt – he wasn't.)¹⁰⁵ As a result, the Foreign Office was able to write to the Treasury debunking the Italian cover story for the *Oreto* and requesting that the vessel should be 'vigorously watched, and [that] if any armament prohibited by the Foreign Enlistment Act is discovered, the vessel may at once be detained'.¹⁰⁶ Twelve days later Russell chased for an update, though by then it was too late and the *Oreto* had already sailed.¹⁰⁷

VI

The response of the British government, when faced with what was an undoubted diplomatic crisis over Confederate shipbuilding, demonstrated that the administrative apparatus of the country was, to coin a phrase adopted in more recent times with respect to bureaucratic failures, 'not fit for purpose'.¹⁰⁸ Government departments moved with cautious deliberation along clearly demarcated tracks, officials communicating with each other in their own and other departments with elaborate courtesy and employing well-used formulae. True, officials on the whole were prompt to reply to requests for information or to take the action demanded, but, perhaps in the time-honoured manner of some officials throughout the ages, there is a sense when reading the correspondence that the first consideration of junior officialdom was to dispatch a reply which responded to the letter of what was asked

¹⁰²Milton asserts that Edwards 'proved to be a Confederate agent', though elsewhere he describes him as 'at most, a paid agent of the Confederacy, and, at the least, an ardent Confederate sympathizer' (Milton, *Lincoln's spymaster*, p. xx and p. 37).

¹⁰³Fremantle and Berkeley to Lords Commissioners of Treasury, 22 Feb. 1862, TNA, 'Florida', FO 881/2011, doc. 4, encl. 1.

¹⁰⁴Russell to Sir J. Hudson (consul in Turin), 26 Feb. 1862, TNA, 'Florida', FO 881/2011, doc. 5A.

¹⁰⁵Layard to law officers, 31 Aug. 1863, TNA, 'Iron-clad vessels', FO 881/2006, doc. 40, reporting the results of the enquiries Russell had instituted.

¹⁰⁶Hammond to Hamilton, 26 Mar. 1862, TNA, 'Florida', FO 881/2011, doc. 8.

¹⁰⁷Russell's chasing for a further report: Hammond to Hamilton, 7 Apr. 1862, TNA, 'Florida', FO 881/2011, doc. 10.

¹⁰⁸The phrase was coined in 2006 by Rt Hon. Dr J. Reid MP, home secretary, specifically in relation to his department's management of immigration (House of Commons Home Affairs Select Committee, Fifth Report, Session 2005–2006, <https://publications.parliament.uk/pa/cm200506/cmselect/cmhaff/775/6052302.htm>, accessed 21 Apr. 2023).

but no more, and to seek to avoid further requests. Russell, who, if anyone could be so described, was responsible for handling the crisis, had to deal with his opposite numbers of equal rank (or his subordinates did, with *their* opposite numbers) in order to obtain information or request action, and then hope that action filtered down through the layers of bureaucracy in other departments, before laboriously working its way back up the chain of command and, ultimately, across the appropriate channel back to himself.

In what was still an embryonic bureaucratic structure, the role of individual efficiency, opinion and sheer caprice was an important factor in the administration's response. The small number of personnel involved meant that illness or absence caused problems, as the incapacity of Sir John Harding demonstrated during the crucial phase of the dispute over the *Alabama*, and the difficulty that Berkeley found in executing the order to detain the *Alexandra*. Government's reach was limited, and the men on the ground wielded considerable influence, no matter their rank, as the example of Edwards in Liverpool shows. Much closer to home, men who wanted to earn some money by helping out Confederate agents in the Royal Dockyard in Sheerness were able to do so unhindered until it was too late (though some at least later paid the penalty). However, for all the incompetence, the evidence of individuals striving within the confines of the system to 'do the right thing' should not be ignored.

Taking all these factors into account, a picture emerges of a British administrative response which was muddled, flat-footed, often complacent, and simply ill-equipped to respond effectively to a crisis of this nature and magnitude – but not one which set out to be helpful to the Confederacy. There is no evidence that there was an official policy of 'turning a blind eye', although it is certainly the case that some individual officials appear to have done so. The government was slow to determine a course of action, and unable quickly to implement a decision once taken. Of course, this inadequacy benefited the Confederates – they were the party deliberately stretching the law to its limits.

It is sometimes alleged that the British government became alert to the dangers of allowing Confederate shipbuilding to proceed unchecked only after the embarrassment of the escape of the *Alabama*, and that its policy became more restrictive as the war dragged on. Indeed, most historians assume that after the seizure of the Laird rams, the issue went away: Sexton, for example, explicitly claims that 'The purchasing of the Laird rams largely put the shipbuilding controversy to bed for the remainder of the war'; for Jenkins, 1863 was 'the decisive year'; and even Merli, in *Great Britain and the Confederate Navy*, deals somewhat summarily with later vessels such as the *Rappahannock* and the *Shenandoah*, which, as we have seen, continued to stoke the diplomatic fires and to create administrative headaches for the British government.¹⁰⁹ It is certainly the case that the government, and Russell personally, became more interventionist in the course of 1863, as the seizure and subsequent trial of the *Alexandra* in April of that year and the detention and ultimate seizure of the Laird rams in the autumn make clear. It is also true that external domestic pressures to intervene more effectively began to be exerted on Russell after the

¹⁰⁹Sexton, *Debtor diplomacy*, p. 113; Jenkins, *War for the Union*, p. 306.

escape of the *Alabama*, and more particularly in 1863. Petitions from anti-slavery bodies poured into the Foreign Office, demanding that the government put a stop to Confederate shipbuilding.¹¹⁰ However, Russell was under no particular political pressure to change his stance, since the cabinet largely left him a free hand on the issue. It was only when sticking his neck out to detain the Laird rams that Russell sought political cover from ministerial colleagues, which was immediately forthcoming, but it is telling that Russell informed Palmerston of his intention to detain the rams only on the day he decided to do so.¹¹¹ There was some disquiet that the government was not pursuing a more proactive policy against the Confederates among radicals, such as Forster and Bright, for example in a Commons debate on the *Alabama* on 27 March 1863; but the opposition showed little interest in the subject, though they did call a debate on the Laird rams on 23 February 1864, in order to chastise Russell for intervening too readily in the private affairs of business.¹¹²

In reality there was no moment at which British policy pivoted to becoming restrictive. The decision to detain the rams was finely balanced and Russell only just came down on the side of intervention. Equally, as seen above, the government took the matter seriously from the outset, when first contacted by the US authorities over the building of the *Oreto*, and in the end the political will was not lacking to stop the *Alabama* from sailing – only the means to do so were. Naturally, the British government's failure to prevent the sailing of the *Florida*, and still more the *Alabama*, served to heighten the US government's anger and frustration, and the diplomatic war of words intensified throughout the Civil War and beyond, until Britain finally agreed in 1872, following an innovative international tribunal held in Geneva, to pay \$15.5 million in compensation for US merchant marine losses at the hands of the British-built raiders.

At first sight, the payment of sizeable compensation is suggestive of British 'guilt'. There is insufficient space here to examine the specific political and diplomatic circumstances in which the award was made, still less the degree to which the arbitration may properly be described as an arbitration at all (in any meaningful judicial sense).¹¹³ However, the tribunal's decision to award compensation rested on a number of factors, including the treatment of Confederate warships, once they had been commissioned outside British territorial waters, in British colonial ports: so, for example, the British government was held liable (by a three-to-two vote) for the depredations of the CSS *Shenandoah* only following its visit to Melbourne in February 1865. In relation to the CSS *Alabama*, the tribunal decided (by a vote of four to one, the British arbiter dissenting) that 'the British government failed to use due diligence in the performance of its neutral obligations', and that 'those orders which it did give

¹¹⁰One example out of many: TNA: 'Case of the ironclads built at Birkenhead', FO 5/1000/60, L Chamerozvw to Russell, 4 Sept. 1863 – specifically with respect to the Laird rams.

¹¹¹Russell to Palmerston, 3 Sept. 1863, London, TNA, 'Lord John Russell: Papers. Correspondence: to the Queen and Lord Palmerston', PRO 30/22/30/fols 69v–70v.

¹¹²*House of Commons Debates*, 27 Mar. 1863, Vol. 170, Cols 33–72; *House of Commons Debates*, 23 Feb. 1864, Vol. 173, Cols 955–1021.

¹¹³For the impact of US domestic politics on the Treaty of Washington and the American case at the tribunal itself, see Cook, *Alabama claims*, passim; for British politics, R. Brent, 'The Alabama claims tribunal: the British perspective', *International History Review*, 44 (2021), pp. 21–58.

at last, for the detention of the vessel, were issued so late that their execution was not practicable'.¹¹⁴ A similar finding was made in respect of the CSS *Florida*.

The tribunal's allocation of some responsibility to Great Britain is not unreasonable, given the story of muddle and incompetence outlined above. However, what the tribunal did *not* conclude was that Great Britain had set out to aid and abet the Confederacy, or even that it had turned a blind eye to its activities. This survey, on the contrary, has pointed to the continual, strenuous efforts that the British government *did* make to try to put a stop to the Confederate activity. These were not the actions of a government seeking to supply covert aid to one party in the Civil War; the vehemence of the US protests must not obscure the considerable lengths to which the British government went to obstruct Confederate plans. It follows that the argument that Great Britain sided with the Confederacy cannot stand. Instead, the British government sought, in accordance with the proclamation with which this article began, to discharge its obligations as a neutral to the best of its ability. The seeds of its failure, to the extent that it did fail, lay in the lack of effective governmental apparatus. Perhaps Palmerston's administration should also be blamed for that; if so, it would have to share the blame with all previous, and perhaps many subsequent, governments.

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¹¹⁴ *Papers relating to the foreign relations of the United States, transmitted to Congress with the annual message of the President*, Dec. 2, 1872, Pt II, Vol. IV, Doc. 34, p. 51 (<https://history.state.gov/historicaldocuments/frus1872p2v4/d34>, accessed 23 Oct. 2023).

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