AWARD OF THE GENEVA TRIBUNAL.

We gave in the *Year Book* of 1872 the text of the Treaty of Washington, the first article of which provides that the claims known as the *Alabama* claims, should be submitted to a tribunal of arbitrators.

The arbitrators appointed were as follow: England—Sir Alexander James Cockburn; United States—Charles Francis Adams; Italy—Count Frederic Sclopis; Swiss Confederation—Jacques Stoempfli; Brazil, Viscount d'Itajriba.

The Tribunal held its first session at Geneva on the 15th of December, 1871. The agents for the High contracting parties, Lord Tenterden for England, and John C. Bancroft Davis for the United States, gave in their cases, evidence, &c., and on the 16th of December the Tribunal was adjourned until the 15th of June, 1872, when they again met and continued in session, with a few brief interruptions until the 14th of September of the same year. On that day an award, of which the following is a synopsis, was promulgated, and the labours of the Tribunal were brought to a close.

THE AWARD

first sets forth that the "due diligence" referred to in Art. 6, of the Washington treaty, ought to be exercised by neutral governments in exact proportion to the risks to which other governments may be exposed, from a failure to fulfil the obligations of neutrality on their part; that the circumstances out of which the *Alabama* claims controversy arose were of a nature to call for the exercise, on the part of the British Government, of all possible solicitude, for the observance of all the rights and duties involved in the proclamation of neutrality issued by Her Majesty on the 13th May, 1861; that the effects of a violation of neutrality, committed by means of the construction, equipment and armament of a vessel, are not done away with by any Commission which the Government of the belligerent Power, benefitted by the violation of neutrality, may afterwards have granted to that vessel, and the ultimate step by which the offence is completed, cannot be admissible as a ground for the absolution of the offender, nor can the consummation of his fraud become the means of establishing his innocence; that the privilege of exterritoriality, accorded to vessels of war, is a proceeding of courtesy and mutual deference, and can never be appealed to for the protection of acts done in violation of neutrality.

That the absence of a previous notice cannot be regarded as a failure in any consideration required by the law of nations, in those cases, in which a vessel carries with it its own condemnation.

That in order to impart to any supplies of coal, a character inconsistent with the rule of the treaty, prohibiting the use of naval ports or waters, as a base of operations for belligerents, it is necessary that said supplies should be connected with special circumstances, of time, of person, or of place, which may combine to give them such a character.

That with respect to the *Alabama*, it clearly results from all the facts connected with her construction in the port of Liverpool, and subsequent equipment and armament in the vicinity of Terceira, through the agency of vessels called the *Agrippina* and *Bahama*, despatched from Great Britain to that end, that the British Government failed to use due diligence in the performance of its neutral obligations, and especially that it omitted, during the construction of the *Alabama*, any effective measures of prevention, notwithstanding the representations made by the diplomatic agents of the United States; and that those orders which were given at last for the detention of the vessel, were issued so late that their execution was not practicable; that the measures taken for pursuit and arrest were so imperfect as to lead to no result, and, therefore, cannot be considered as sufficient to release Great Britain of the responsibility already incurred.

That despite the violation of neutrality of Great Britain committed by this vessel, she was on several occasions freely admitted into the ports of British colonies, instead of being proceeded against as she ought to have been.

That the British Government cannot justify itself for a failure in due diligence on the plea of the inefficiency of the legal means which it possessed.

Four of the Arbitrators therefore, for the reasons above assigned, and the fifth (Sir Alexander Cockburn) for reasons separately assigned, are of opinion that Great Britain has in this case failed, by omission, to fulfil the duties prescribed in the first and third rules established by the sixth article of the Tresty of Washington.

In the case of the *Florida*, previously called the *Oreto*, four members of the Tribunal conclude that there was a failure of due diligence, in that it was allowed to escape from the port of Liverpool despite the representations of the agents of the United States.

In that it stayed at Nassau, issued from that port, enlisted men, took in supplies, and armament, with the co-operation of the British vessel *Prince Alfred*, at Green Cay, there was negligence on the part of the British Colonial authorities.

And in that it was several times freely admitted into the ports of British Colonies, notwithstanding the violation of the neutrality of Great Britain.

That the fact of the judicial acquittal of the *Oreto* at Nassa cannot relieve Great Britain of the responsibilities incurred by her under the principles of international law. Nor can the entry of the *Florida* into the Confederate port of Mobile, and her stay there during four months extinguish the responsibility previously incurred by Great Britain.

And therefore that Great Britain failed to fulfil the duties prescribed in the first, second and third rules of article six of the treaty.

In the case of the *Shenandoah*, three against two members of the Tribunal decide that, the British Government is responsible for her acts only after her stay in the port of Melbourne, where it is admitted by the British Government that augmentation was clandestinely effected in her forces