

The acts of the prisoners derive their character in contemplation of law, from the *animus*, the intent of the actors. Their intent having been, as the evidence clearly shows, not colorably, but really, to exercise rights vested in them as servants of a belligerent Government, their acts are not to be tried by the standard of municipal law.

This principle is applied in the decision of the Supreme Court of the United States in *The United States v. Palmer*, 3 Wheaton Rep. 610, where, with reference to the case "when a civil war rages in a foreign nation, one part of which separates itself from the old established Government, and erects itself into a distinct Government," the Court laid down the rule, that "if the Government of the Union remains neutral, but recognizes the existence of a civil war, the Courts of the Union cannot consider as criminal those acts of hostility which war authorises, and which the new Government may direct against its enemy."

And to the same effect is the dictum of one of the Judges of the Court of Queen's Bench in the recent case of the *Gerity* [where the prisoners had seized a ship at sea, saying they were acting for the Confederate Government] "though the Confederate States are not recognised as independent, they are recognized as a belligerent power, and there can be no doubt that parties acting in their behalf would not be criminally responsible" (12 Week. Rep. 863).

(Signed)

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LINCOLN'S INN,  
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