

# Law of the Sea: Adm. Semmes, the ALABAMA Claims and the First International Arbitration

By David A. Bagwell

Adm. Raphael Semmes (CSN-ret.), former captain of the Confederate commerce raider<sup>1</sup> CSS ALABAMA, had a very nice and calm life after his ship was sunk by USS KEARSARGE in a lovely, lovely ships' duel off Cherbourg near the end of "The Late Unpleasantness" of the Civil War.

Like me he was a lawyer in Mobile, and was even elected to a judgeship, though he was disqualified under Congressional Reconstruction's early version of the de-Baathification policy we saw much later in Iraq.

Like me he enjoyed my hometown Point Clear on Mobile Bay as often as he could, spending long summers here. He and the Catholic Bishop raced sailboats – theirs was naturally named ALABAMA and naturally they won – against the young Jesuit candidates for the priesthood, summering at Loyola Villa on Mobile Bay. He helped to start raising money to build the lovely heart pine summer church on Mobile Bay at Battles Wharf, Sacred Heart, still not air conditioned by the choice of the parishioners.

Adm. Semmes died at Point Clear on August 30, 1877, at 7:20 A.M., legend suggests after his having eaten either "a bad oyster" (didn't he know to eat them only in "r months?") or bad shrimp, although he had stomach troubles and likely had stomach cancer.

Though Stonewall Jackson's last words about "across the river and into the trees" were soldier's words, Admiral Semmes' last words in the haze of death were lawyer words rather than sea captain's words: "You will see the judge about it – the case has not been decided properly – I ask for nothing but justice! Should I not have it? Promise me to attend to this matter, since I cannot do it myself!"

His body was taken from Point Clear to Mobile on a steamboat, accompanied by his friend Mobile's Father Abram Ryan, "poet-priest of the Confederacy" and author

of the classic poem "The Conquered Banner." The poem's theme is that the Confederate flag should be flown no more. Apparently George Wallace didn't read the poem when he put the Confederate flag atop Alabama's statehouse in 1962.

But Adm. Semmes' active working career on The ALABAMA was anything but calm. After taking over ALABAMA in late July of 1862, in the next two years he and ALABAMA captured and burned 55 Union merchant ships worth \$4.5 million in 1863 money and bonded out 10 others to the value of \$562,000 in 1863 money. Not bad for two years at sea.

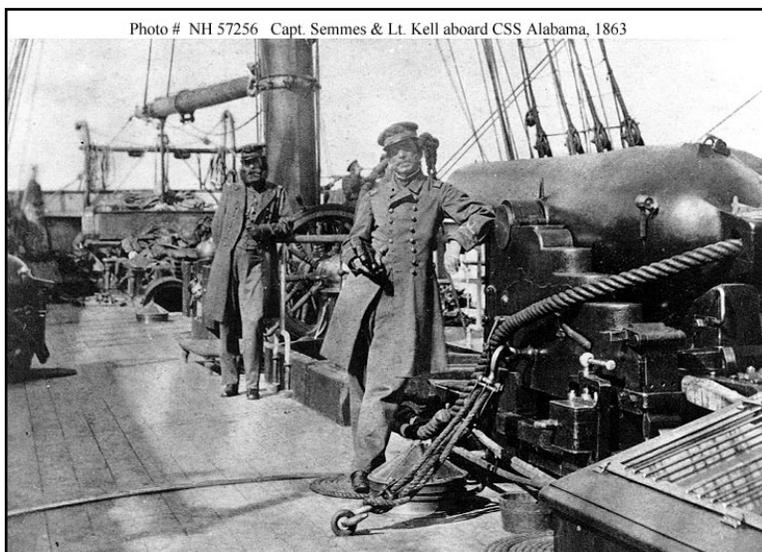
His motivation and motto? Engraved on the bronze helm of ALABAMA – I have seen it myself – were the French words "Aide toi et le Dieu t'aidera," meaning "Help yourself and then God will help you." The words are usually translated into English as the more nearly passive "God helps those who help

themselves."

They aren't from the Bible as is commonly thought, but instead from a Fable of Aesop written in Greek originally and later in Latin. Joan of Arc of France quoted it in medieval French as "Aide toy, Dieu te aidera" in the fifth interrogation on March 15, 1431, of her trial in France. The saying is sometimes attributed to Rabelais (1494-1553) but he didn't coin it. Jean de La Fontaine, the legendary French fabulist, in his 1668 work "Fables Choisies" ("Chosen Fables") filched Aesop's fable, "Hercules and The Teamster" or – less charged with secondary meaning – "the Wagoner," which fable the French call "Le Bouvier et Herakles."

Finally Benjamin Franklin put the common English version of it in "Poor Richard's Almanac," and so sometimes he

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Capt. Raphael Semmes on CSS ALABAMA, Capetown, South Africa, 1863. Lt. John M. Kell in background at Ship's Wheel/ Courtesy of U.S. Naval Historical Center

gets credited with its authorship. I always figured that those words were put on the helm of ALABAMA at the instruction of the great U.S. oceanographer Mathew Fontaine Maury, a descendant and naturally a great admirer of the French fabulist Fontaine, Maury having been active in the purchase of the ALABAMA in Britain, but I cannot yet prove it. Of such are the mysteries of history.

After The War there was a clamor by Union commercial forces that Great Britain, which had built the ALABAMA and other similar ships including CSS FLORIDA, repay the shipping losses. Sen. Charles Sumner, chairman of the Senate Foreign Relations Committee, demanded from Britain either \$2 billion or, if not, Canada; not a bad opening demand if it worked (haven't I negotiated against him in my 40 years of law practice? Sure seems like it.) But it didn't work and Britain stalled. U.S. shipping interests pushed the government to get payment for their shipping losses, and finally both governments got serious.

There ensued what many believe to be the first

international arbitration. The tribunal consisted of Sir Alexander Cockburn for Britain, Charles Francis Adams for the United States (with William Maxwell Evarts as counsel), Federico Sclopis for Italy, Jakob Stämpfli for Switzerland, and Marcos Antônio de Araújo for Brazil. Sessions were held in a reception room of the Town Hall in Geneva, which is now called *Salle de l'Alabama*, now graced with a large and lovely painting of the negotiations.

The final award was \$15 million, made part of the Treaty of Washington and paid out in 1872, five years before Adm. Semmes died.

Not to put too broad a brush on it, but many believe that this international arbitration, so successful in its outcome, was a precursor to the Hague Convention, the League of Nations, the World Court and, ultimately, the United Nations.

**Endnotes:**

1 In case you are wondering about her status, the U.S. Court of Appeals for the Third Circuit held in 1992, in a case involving ownership of the bell of CSS ALABAMA, that she was *not* a pirate ship. *United States v Steinmetz*, 973 F.2d 212, 220 (3<sup>rd</sup> Cir. 1992). Some judges get *all* the good cases.