in violation of British law; the seizure of a foreign vessel (as in the supposed case of the Shenandoah), if found committing depredations on the high seas, after the belligerency of the Power, by which she was commissioned, had ceased;—all these are acts within the former category, concerning the external relations of Great Britain towards foreign Powers, not subject to British law or to British national jurisdiction.

The executive orders to detain the Alabama at Queenstown and Nassau, the Florida at Nassau, and the rams at Liverpool, were on the other hand, all issued by virtue of the powers with which the British Government was armed against its own subjects by British municipal law (viz., by the Foreign Enlistment Act of 1819), and not by virtue of any actual or supposed prerogative of the Crown.

The words used by the British Attorney-General in Parliament, on the 23rd of February, 1864, with reference to the detention of the rams at Birkenhead (or to the preliminary notice that they would be seized if any attempt were made to remove them), have been several times quoted in the American Argument.* Those words were, that the Government had given the orders in question, "on their own responsibility." But this does not mean that the orders given were, or were supposed to be, founded on any other authority than the powers of seizure given by the Foreign Enlistment Act; to which reference had been expressly made, as the authority for what was done, in a letter to the Law Officers dated October 19, 1863, also quoted at page 326.

Those orders were necessarily given upon the responsibility of the Executive Government, on whom the burden was thrown, by the Foreign Enlistment Act, of first taking possession of an offending vessel, in any case in which they might have reasonable ground for belief that the law was, either by act or by attempt, infringed; and afterwards justifying what they had done by a regular judicial proceeding for the condemnation of that vessel, in the proper Court of Law. Exactly the same language had been used, by the same Law Officer of the British Government, when Solicitor-General, in a previous debate on the seizure of the Alexandra (24 April, 1863, Hansard's Debates, vol. clxx, pp. 750—752). After expressly saying that "in this case everything had been done according to law," he added, "it was our duty, upon having *primâ facie* evidence which in our judgment came up to the requirements of the clause, to seize the ship or vessel, according to the form of proceeding under the Customs Acts. There is no other way of dealing with the ship; you cannot stop the ship by going before a magistrate; it must be done upon the responsibility of the Government; and so it has been done."

14. The true doctrine as to the powers of the Crown under British law.

The fundamental principles of British Constitutional Law, relative to this branch of the Argument, will be found in all the elementary works on that subject. The subjoined extracts are from Stephen's edition of Blackstone's Commentaries:

"It is expressly declared, by Statute 12 and 13 William III., cap. 2, that the laws of England are the birthright of the people thereof; and all the Kings and Queens who shall ascend the throne of this realm ought to administer the Government of the same according to the said laws; and all their officers and ministers ought to serve them respectively according to the same." (Vol. ii, p. 424.—6th edition.)

"Since the law is in England the supreme arbiter of every man's life, liberty, and property, Courts of Justice must at all times be open to the subject, and the law be duly administered therein." (Ibid. p. 505).

"The law of nations . . . is a system of rules established by universal consent among the civilized inhabitants of the world. . . . As none of these (independent) States will allow a superiority in the other therefore, neither can dictate nor prescribe the rules of this law to the rest; but such rules must necessarily result from those principles of natural justice in which all the learned of every nation agree, and to which all civilized States have assented. In arbitrary States, this law, wherever it contradicts, or is not provided for by the municipal law of the country, is enforced by the Royal power; but, since in England no Royal power can introduce a new law, or suspend the execution of the old, therefore, the law of nations, whenever any question arises which is properly the subject of its jurisdiction, is here adopted in its full extent by the common law, and held to be the law of the land. Hence those Acts of Parliament, which have from time to time been made to enforce this universal law, or to facilitate the execution of its decisions, are not to be considered as introductive of any new rule, but merely as declaratory of the old fundamental constitutions of this kingdom, without which it must cease to be a part of the civilized world. . . . " (Vol. iv, pages 302, 303.)

With respect to the particular question of the power of the British Crown to prevent, by virtue of its prerogative, the building of ships of war for foreign Powers within its dominions, the law of Great Britain was authoritatively explained as long ago as 1721.

"In Michaelmas vacation, 1721" (says Fortescue, in his Reports, page 388), "the Judges were ordered to attend the House of Lords concerning the building of ships of force for foreigners; and the

* Pages 45, 326, &c.