

forces of the realm to stop acts of war within British territory.

to suspend the Habeas Corpus Act or to rely on the Foreign Enlistment Act, in order to enable it to intercept and prevent by force such expeditions or such acts or operations of war. The whole civil police, and the whole naval and military forces of the British Crown would have been lawfully available to the Executive Government, by the common law of the realm, for the prevention of such proceedings. But the fact is, that nothing of this kind ever happened or was attempted, during the civil war in the United States, in Great Britain, or in any of the British Possessions, except (in the year 1863-64) in some of the British North American Provinces; and, when such attempts were made in those provinces, the powers of the common law were at once put in force for their repression, and were strengthened by special and extraordinary legislation; nor is any complaint now made by the Government of the United States of any want of due diligence on the part of the British North American authorities in that respect. Not only was no military or naval expedition and no act or operation of war ever attempted elsewhere within British territory against the United States, but (unless the arming of the Florida at Green Cay, in the Bahamas, be an exception), no attempt was ever made in any other part of the British dominions, so much as to equip or dispatch for the Confederate service any armed vessel, by which the question whether it had or had not the character of a naval expedition prohibited by international law might have been raised.

17. The assertion of the United States that Great Britain relies on punitive, and not on preventive law, disproved.

(C.) The next propositions are, that "Great Britain alone pretends that punitive law is the measure of neutral duties;"—that the powers vested in the Executive Government of Great Britain by the Foreign Enlistment Act of 1819 were punitive only, and not preventive;—and that (D) "all other Governments, including the United States, prevent peril to the national peace through means of prerogative force, lodged, by implied or express constitutional law, in the hands of the Executive."

It is necessary to notice, in passing (with reference to the points (A) and (B), already dealt with), the fallacy here introduced by the improper use of the term "prerogative force," to signify definite legal powers, vested by law in the Executive Government of a nation. Such is not the sense in which the word "prerogative" is used in Great Britain: nor does it appear to be that, in which it is used in the parts of the American Argument already dealt with.

18. The preventive power of the British law explained.

The answer to proposition (C) is, simply, that it is without foundation in fact. Great Britain has never pretended that punitive law is the measure of neutral duties; it is not true that the powers vested in the Executive Government of Great Britain by the Foreign Enlistment Act of 1819, were punitive only and not preventive. If the powers given, by the Acts of Congress already mentioned, to the President of the United States, can with any propriety of language be described as powers to "prevent peril to the national peace by means of prerogative force," the same description is equally applicable to the powers given to the Executive Government of Great Britain, by the Foreign Enlistment Act of 1819.

That Act, as already noticed, prohibited under penalties the equipment or armament of ships for foreign belligerent service; the augmentation of the warlike force of foreign ships of war: and the enlistment or recruitment of men for foreign belligerent service. *It prohibited also any attempt or endeavour to do any of those acts:*—the prohibition as to ships, &c., being restricted to acts done, or attempts made, within British jurisdiction. So far as this Act imposed penalties, it was of course punitive. But it was preventive also (for which reason it struck at attempts and endeavours, as well as acts)—and prevention was the main purpose for which it was passed, as appears from the preamble, which recites, that the laws previously in force "were not sufficiently effectual for preventing the prohibited acts.

These preventive powers are contained in the 5th, 6th, and 7th sections. The 5th and 6th sections authorized the Executive Government, in any part of the British dominions, upon receiving information on oath of the violation of the provisions against enlistment by persons on board any vessel within British jurisdiction, to detain such vessel, and prevent her from proceeding to sea on her voyage with the persons so unlawfully enlisted on board; and also to detain her until certain penalties had been paid, if her commander had been privy to the unlawful enlistment. The 7th section authorized any officer of Customs or Excise, or any other officer of the British navy, by law empowered to make seizures for any forfeiture incurred under any of the laws of Customs or Excise or the laws of trade and navigation, to seize any ship or vessel equipped or armed, or attempted to be equipped or armed, contrary to its provisions, in such places and in such manner, in which the same officers respectively would be empowered to make seizures under the laws of Customs or Excise, or under the laws of trade and navigation.

The powers of seizure (to be followed afterwards by proceedings in the Court of Exchequer for the condemnation of the vessel) which from 1860 to 1866 were available for the purpose of prevention under this statute, are contained in section 223 of the