British Customs Law Consolidation Act of 1853, and in section 103 of the Merchant Shipping Act of 1854. By section 223 of the Customs Act, power was given to any officer of Her Majesty's Navy, duly employed for the prevention of smuggling, and on full pay, or any officer of Customs or Excise, to seize or detain, in any place, either upon land or water, all ships and boats, and all goods whatever, liable to forfeiture. By section 103 of the Merchant Shipping Act, power was given to any commissioned officer on full pay in the naval service of Her Majesty, or any British officer of Customs, to seize and detain any ship, which might, either wholly or as to any share thereof, have become liable to forfeiture under that Act.

The papers before the Arbitrators contain several instances of the employment of officers in Her Majesty's naval service, both at Liverpool and at Nassau, for the execution of duties connected with the enforcement of these laws. In most cases, those duties were entrusted in practice to the officers of Her Majesty's Customs; but the whole naval force of the British kingdom might, in case of need, have been lawfully employed, within British jurisdiction, in aid of those officers. When the Georgia was reported to have gone to Alderney, a British ship of war was sent there after her; and if the commander of that ship had found her in British waters, and had ascertained the existence of any grounds warranting her detention, she would have been undoubtedly detained by him. Whenever evidence was forthcoming of an actual or contemplated illegal equipment of any vessel within British jurisdiction, there was ample preventive power under these statutes. Without such evidence, no rule of international law gave a foreign State the right to require, that any vessel should be prevented from leaving the British dominions.

19. The doubtful points as to the construction of the British Foreign Enlistment Act, never affected the diligence of the British Government.

The United States have referred, in their Argument, to the question raised as to the interpretation of the British Foreign Enlistment Act before the English Court of Exchequer, in the case of the Alexandra, and to the opinion in favour of its more restricted construction, which prevailed in that case; the judges being equally divided, and the right of appeal being successfully contested on technical grounds. But in another case (that of the Pampero), a Scottish Court of equal authority adopted the more extended construction, upon which the British Government, both before and after the case of the Alexandra, always acted; and, as no vessel was ever employed in the war service of the Confederate States, which was enabled to depart from Great Britain by reason of this controversy as to the interpretation of the Act, it would seem to be of no moment to the present inquiry, even if it had related to a point, as to which Great Britain owed some antecedent duty to the United States by international, as distinguished from municipal, law. But the controversy did not, in fact, relate to any such point. There was no question as to the complete adequacy of the provisions of that Statute to enable the British Government to prevent the departure, from British jurisdiction, of any warlike expedition, or of any ship equipped *and armed*, or attempted to be equipped *and armed*, within British jurisdiction, for the purpose of being employed to cruise or carry on war against the United States. The sole question was, whether the language of the prohibition comprehended a ship built and specially adapted for warlike purposes, but not armed or capable of offence or defence, nor intended so to be, at the time of her departure from British jurisdiction. All the judges were of opinion, that the departure of such a ship from neutral territory was not an act of war, was not a hostile naval expedition, and was not prohibited, *inter gentes*, by general international law; and two of them thought, that, not having any of those characters, it was also not within the prohibitions of the Statute; while the other two were of opinion that the existence of those characters was not, under the words of the law, a necessary element in the municipal offence.

20. Baron Bramwell's view of the international, as distinct from municipal obligation, agreed with that of the American Attorney-General in 1841.

The language of Baron Bramwell, an eminent British Judge, (afterwards a Member of the British Neutrality Laws Commission), explains clearly and forcibly the view of the case, as it would have stood under international law only, which was taken by the entire Court.

"If we look at the rights and the obligations created by international law, if a hostile expedition, fitted out by a State, leaves its territory to attack another State, it is war; so also, if the expedition is fitted out, not by the State but with its sufferance, by a part of its subjects or strangers within its territories, it is war, at least in the option of the assailed. They would be entitled to say, either you can prevent this, or you cannot. In the former case, it is your act, and is war; in the latter case, in self-defence we must attack your territory, whence this assault on us proceeds. And this is equally true, whether the State assailed is at war or at peace with all the world.

"The right, in peace or war, is not to be attacked from the territory of another State; that that territory shall not be the basis of hostilities. But there is no international law forbidding the supply of contraband of war; and an armed vessel is, in my judgment, that, and nothing more. It may leave the neutral territory under the same conditions, as the materials of which it is made might do so. The State interested in stopping it must stop it, as it would other contraband of war; viz., on the high seas."