Britain and the United States, can be supposed to imagine that enactments conceived in these vague and indefinite terms, if they had been adopted by either of those countries, would have been of the smallest use for the purpose of preventing such acts as those of which the Government of the United States now complain; much less that they would have been comparable in point of efficiency with the definite means of prevention provided and directed against attempts, as well as acts, by the Acts of Congress and of Parliament, which were actually in force in those nations respectively.

But it is assumed, in the Argument of the United States, that these special laws were in all these countries supplemented by an elastic and arbitrary executive power. Of this assertion no proof in detail is attempted to be given; nor is it believed to be consistent with the fact.

If the French and other Governments issued executive Proclamations forbidding their subjects to do acts of the nature now in question, so also did the Queen of Great Britain. By Her Majesty's Proclamation of Neutrality (13th May, 1861), she "strictly charged and commanded all her subjects to observe a strict neutrality during the hostilities" (between the United States and the Confederates), "and to abstain from violating or contravening either the laws and statutes of the realm in this behalf, or the law of nations in relation thereto;" and she warned them, "and all persons whatsoever entitled to her protection"—

"That if any of them should presume to do any acts in derogation of their duty, as subjects of a neutral Sovereign, in the said contest, or in violation of the law of nations in that behalf, as for example, and more especially, by entering into the military service of either of the said contending parties as commissioned or non-commissioned officers, or soldiers; or by serving as officers, sailors, or marines, on board any ship or vessel of war, or transport, of, or in the service of, either of the said contending parties; or by engaging to go, or going, to any place beyond the seas with intent to enlist or engage in any such service, or by procuring, or attempting to procure, within Her Majesty's dominions, others to do so; or by fitting out, arming, or equipping any ship or vessel to be employed as a ship of war, or privateer, or transport, by either of the said contending parties;" (or by breach of blockade, or carriage of contraband), "all persons so offending would incur and be liable to the several penalties and penal consequences," by the (British Foreign Enlistment) Act, "or by the law of nations, in that behalf imposed or denounced."

If this Proclamation referred (as it did) to British law in some cases, and to the law of nations in other cases for its sanctions, the French and all other Proclamations of the like character also had reference, for the like purposes, to their own respective national laws, and to the law of nations. Whatever surveillance may have been exercised by the French Government, according to the particular provisions of their own laws, over the builders of the rams intended for the Confederates, at Nantes and at Bordeaux, the *construction* of those vessels was at all events *not stopped;* and one of them, the Stonewall, did eventually pass into the hands of the Confederates; nor was it by any power of the French Executive, or of the French law, that she was afterwards intercepted, before she had actually committed destructive acts against the shipping of the United States. The Georgia received her armament in French waters. Commodore Barron, "the head of the Confederate Navy Department in Europe,"* was established in Paris; a Frenchman residing in Paris, named Bravay, intervened in the Confederate interest as the ostensible purchaser of the rams at Birkenhead, and claimed them, against the seizure of the British Government, without any aid from French authority to Her Majesty's Government, in their resistance to that claim. These facts are not mentioned as implying any want of proper diligence on the part of the French Government; but to show, that even in that country, at a time when the Imperial Government exercised much larger powers of control over public and private liberty than could ever be possible in Great Britain (or, as it is believed, in the United States), the Executive either did not possess, or did not find it practicable to exercise with the preventive efficacy which the American Argument seems to deem necessary, any merely discretionary powers of interference.

VI.—*On the Preventive Powers of the Law of the United States.*

22. On the comparison made by the United States between their own laws and British law, in order to prove a general want of due diligence against Great Britain.

The comparison between the law of Great Britain and the law of the United States is more easy; because they have a very close historical and juridical relation to each other; and because both these nations exclude from their constitutional systems all forms of arbitrary power.

What then are the preventive powers, found in the several Acts of Congress from time to time passed upon this subject in the United States, and which are admitted (at page 49

* See letter, dated January 27, 1865, from Consul Morse to Mr. Adams. (United States' Appendix, vol. ii, p. 176.)