9. Acts of Congress of 1794 and 1818.

In accordance with these principles, the Acts of Congress of 1794 and 1818 prohibited, in section 4 of the former, and section 5 of the latter Act, the "increase or augmentation of the force of any ship of war, cruizer, or other armed vessel which, at the time of her arrival within the United States, was a ship of war, cruizer, or armed vessel in the service of any foreign Prince, &c., *by adding to the number of the guns of such vessel, or by changing those on board of her for guns of larger calibre, or by the addition thereto of any equipment solely applicable to war.*"

10. British Foreign Enlistment Act of 1819.

In like manner the British Foreign Enlistment Act of 1819, by section 8, prohibited the "increase or augmentation of the warlike force of any ship or vessel of war, or cruizer, or other armed vessel, which, at the time of her arrival in any part of the United Kingdom or any of Her Majesty's dominions, was a ship of war, cruizer, or armed vessel in the service of any foreign Prince," &c., "*by adding to the number of the guns of such vessel or by changing those on board for other guns, or by the addition of any equipment for war.*"

11. Universal understanding and practice.

No person in either country ever imagined that these prohibitions would be infringed by allowing foreign belligerent steam-vessels to coal *ad libitum* in ports of Great Britain or of the United States. It is no more true that such vessels are specially enabled to continue their cruizes and warlike operations, by means of supplies of coal so received (however great in quantity), than that sailing ships of war are enabled to continue their cruizes and warlike operations by substantial and extensive repairs in neutral ports to their hulls, masts, sails, and rigging, when damaged or disabled, or by unlimited supplies of water and other necessary provisions for their crews.

It was not by Great Britain only, but equally by France, Brazil, and other countries, that this view as to supplies of coal to Confederate vessels in neutral ports was acted upon throughout the war. In the letter already quoted of the Brazilian Minister, Señor Taques, to Mr. Webb, on the subject of the Sumter (9th December, 1861), he wrote:—

"The hospitality, then, extended to the steamer Sumter at Maranham, in the terms in which it was presently afterwards given to the frigate Powhatan, involves no irregularity, reveals no dispositions offensive to the United States. It remains to know whether, in the exercise of this hospitality, the rights which restrict the commerce of neutrals with either belligerent were transgressed. This point involves the whole question, because Mr. Webb bases his argumentation and his complaints on the construction which he gives of contraband of war as to pit coal. He insists strongly, as did his Consul at Maranham and Commodore Porter, on the idea that without coal the Sumter could not have continued her cruise. If this were a reason for forbidding the purchase of coal in the market, the States called Confederate would have the right to make the same complaint against the like permission presently afterwards given to the Powhatan; and if this reason could be brought forward in respect of coal, it could also be urged in respect of drinking water and provisions, because without these none of these vessels could pursue their service." (British Appendix, vol. vi, p. 14.)

And he proceeded to show that coal was not, *jure gentium*, contraband of war.

12. Intention of the Second Rule of the Treaty on this point.

When, therefore, the Second Rule of the Treaty of Washington speaks of a neutral Government being bound "not to permit or suffer either belligerent to make use of its ports or waters as the base of naval operations against the other, or for the purpose of the *renewal or augmentation of military supplies or arms*, or the recruitment of men," it is no more intended to take away or limit the right of a neutral State to permit the coaling of steamers belonging to the war service of a belligerent within neutral waters, than to take away the right to permit them to receive provisions, or any other ordinary supplies, previously allowable under the known rules of international law.

13. British Regulations of January 31, 1862.

With respect to the Regulations made by the Queen of Great Britain on the 31st January, 1862, it is enough to say, that those Regulations were voluntarily made by Her Majesty, in the exercise of her own undoubted right and discretion, as an independent neutral Sovereign, and not by virtue of any antecedent international obligation; that no belligerent Power could claim, under those rules, any greater benefit against the other belligerent, than that the rules themselves should be acted upon without partiality towards either of the contending parties; that the limitation of the quantity of coal to be supplied to the ships of war of the belligerents, in British ports, by these rules, was not absolute and unqualified, but was subject to the exercise of a power given to the Executive Authorities of the various British possessions to enlarge that limit by special permission, when they should, in the exercise of a *bonâ fide* discretion, see cause to do so; and that these rules were, in fact, honestly and impartially acted upon by the British Government throughout the war, without any connivance or sanction whatever, with or to any violation or evasion of them, even if such violation or evasion could have been shown (which it clearly could not) to be the direct or proximate cause of any belligerent operation, resulting in loss to the Government or citizens of the United States.