

Now taking all these powers together the federal government have power—

‘To regulate commerce with foreign nations.

‘To make treaties.

‘To declare war.’

And as subsidiary to the general power of making war, they have power to grant letters of marque and reprisal, to make rules concerning captures by land and water, to maintain and regulate an army and navy, to organize and, in some cases, govern the militia, and, with the consent of the legislature of the state, to purchase such places as may be necessary for enabling them to take military possession of the country.

In a like manner, the power to define and punish piracies and felonies committed on the high seas, and offences against the law of nations, may be considered as necessarily incidental to a power to regulate commerce ; and the nomination and appointment of ambassadors and consuls, to a power of making treaties.

These powers are the *jura summi imperii*—the very insignia of supremacy—and must obviously be exercised by the mother country, if any link at all be intended to subsist between the mother country and her colonies, or the former to have any powers at all over the latter for the common good, the common protection, or common action. Before however introducing them into the colonial bill, it is necessary to decide in what department of the state they must be vested, and on turning to the records of the English law for authority on this point, we discover at once the source from whence they were derived by the Americans, and ascertain in whom they should reside consistently with English law.