but those acts, involving no violation or hostile use of neutral territory, are not imputed as breaches of neutrality to the neutral State. And for a violation or hostile use of neutral territory without the permission or intentional acquiescence of the neutral State, reparation may be due from the offending belligerent to the injured neutral, but the neutral so injured has been guilty of no breach of any neutral obligation towards the other belligerent, whether he does, or does not, subsequently obtain reparation from the offender.

Between the commercial dealings of neutral citizens, in whatever kinds of merchandize (and whether with the citizens or with the Governments of belligerent States), and the levying or augmentation of military or naval forces, or the fitting out and dispatch of military or naval expeditions by a belligerent within neutral territory, international law has always drawn a clear distinction. The former kind of dealings, if they are permitted by the local law of the neutral State, involve on the part of that State no breach of neutrality; if they are prohibited, a disregard of the prohibition is not a violation or hostile use of the neutral territory, but is an illegal act, the measure of which, and the remedies for which, must be sought for in the municipal, and not in international law. The other class of acts cannot be done, against the will of the neutral Sovereign, without a violation of his territory, or of his sovereignty and independence within that territory; and to permit this, for the purposes of the war, would be a breach of neutrality.

The continuance during war, within the neutral territory, of trade by neutral citizens with both or either belligerent, in the produce or manufactures of the neutral State, whether of those kinds which (when carried by sea to a belligerent) are denominated contraband of war, or of any other description, has always been permitted by international law: and no authority, anterior to the departure of the Alabama from Great Britain, can be cited for the proposition that unarmed ships of war, constructed and sold by neutral shipbuilders in the course of their trade, were, in the view of international law, less lawful subjects of neutral commerce with a belligerent than any other munitions or instruments of war.

The authorities on this subject are quoted at large in Annex (A) to the British Counter-Case. Galiani, one of these authorities, argued that the sale in a neutral port, to a belligerent, of a ship not only built, but *armed* for war, ought to be deemed prohibited; but Lampredi, Azuni, and Wheaton rejected that opinion, and held that (the transaction being a commercial one on the part of the neutral seller) the addition even of an armament would make no difference. Story took the same view of the dispatch by a neutral citizen of a ship of war fully armed from the neutral territory to a belligerent port, with a view to her sale there to a belligerent Power.* Mr. Adams himself, in his official correspondence with Earl Russell (April 6, 1863†), admitted the soundness of these doctrines, assuming the transaction of sale and transfer by the neutral to be "purely commercial;" and also assuming the belligerent country, to which such vessels of war might be sold and transferred, to be "not subject to blockade." It cannot, however, be seriously imagined that the existence of a blockade of the ports of the belligerent purchaser would make such a transaction, if it would otherwise be lawful, a violation of the neutrality of a neutral State, in the view of international law.

It may be true that, when an armed ship of war is sold to a belligerent within neutral territory, and goes to sea from thence, fully capable of offence and defence, under the control of the belligerent purchaser, there would often (perhaps generally) exist grounds for contending that the transaction was not substantially distinguishable from the dispatch of a naval expedition by the belligerent from the neutral territory; and this was doubtless a cogent reason for the special legislation of the United States and of Great Britain, which (whatever further scope it may have had), was undoubtedly intended to prevent such expeditions, by striking at the armament of ships of war within neutral territory, for the service of a belligerent. But the case of a ship leaving the neutral country unarmed is, in this respect, wholly different. Her departure is no operation of war; she is guilty of no violation of neutral territory; she is not capable, as yet, of any hostile act. The words of Mr. Huskisson in the debate on the Terceira expedition in the British Parliament (Huskisson's Speeches, vol. iii, p. 559) and of Mr. Canning, as there quoted by him, are strictly applicable to such a case, and deserve reference, as showing the view of this subject, taken long ago by those eminent British statesmen. Speaking of certain complaints made by Turkey during the Greek revolutionary war, he said:—

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* Sir R. Phillimore, in Vol. III. of his work (published in 1857), rejects the distinction of these writers between the export of contraband and the sale of the same kinds of articles within the neutral territory. But he does not, of course, maintain that it is part of the international duty of a neutral State to prohibit or prevent dealings in contraband articles by its subjects, in either of these ways.

† Appendix to Case of the United States, Vol. I, p. 592.