Not only is the doctrine, thus stated, conformable to all the authorities of international law, to which reference has been made in the earlier part of this paper; but the same doctrine was officially laid down by Mr. Legare, then Attorney-General of the United States, in December 1841, when advising his Government that two schooners of war, built and fitted out, and about to be furnished with guns and a military equipment, in New York, for Mexican service against Texas, ought to be treated as offending against the Act of Congress of 1818:—

"The policy," he said, "of this country (the United States), is, and ever has been, perfect neutrality, and non-interference in the quarrels of others. But, by the law of nations, that neutrality may, in the matter of furnishing military supplies, be preserved by the two opposite systems, viz., either by furnishing both parties with perfect impartiality, or by furnishing neither. For the former branch of the alternative, it is superfluous to cite the language of publicists, which is express, and is doubtless familiar to you. *If you sell a ship of war to one belligerent, the other has no right to complain, so long as you offer him the same facility. The law of nations allows him, it is true, to confiscate the vessel as contraband of war, if he can take her on the high seas; but he has no ground of quarrel with you for furnishing, or attempting to furnish it.* But, with a full knowledge of *this undoubted right of neutrals,* this country has seen fit, with regard to ships of war, to adopt the other branch of the alternative, less profitable with a view to commerce, but more favourable to the preservation of a state of really pacific feeling within her borders; she has forbidden all furnishing of them, under severe penalties."—(British Appendix, vol. v, p. 360.)

V.—*On the preventive powers of the Laws of Foreign Countries.*

21. On the arguments as to due diligence derived by the United States from foreign laws.

(D.) It now becomes necessary to observe upon the proposition, that "all other Governments, including the United States, prevent peril to the national peace through means of prerogative force, lodged by implied or express constitutional law in the hands of the Executive." In other words, a general want of diligence is sought to be established against Great Britain, by an argument derived from the laws of the United States, and of other countries, with a view to show, by the comparison, the insufficiency of the preventive powers of British Law.

To the whole principle of this argument, so far as it relates to matters not prohibited by the general law of nations, Great Britain demurs; and, even with respect to matters which are prohibited by that general law, it is obvious that nothing can be more fallacious than an attempt at comparison, which, without exact and special knowledge of the whole complex machinery of laws, judicature, and legal procedure, and political and civil administration, which prevails in each different country, can pretend to decide on the relative efficiency of those various laws for political purposes. The materials, however, on which reliance is placed for this comparison in the American Argument, are so manifestly scanty and insufficient as to make the answer to this part of the argument simple, even if it were in principle admissible.

As to the laws of France, Italy, Switzerland, Portugal, Brazil, Belgium, and the Netherlands; and, in fact, of almost every country mentioned in the Argument, except the United States, it can hardly be thought that the Counsel for the United States understand these laws, which are all substantially the same, better than M. van Zuylen, the Netherlands Minister, who has to administer them; and who, in reply to certain inquiries from the British Chargé d'Affaires at the Hague, wrote:—

"There is no code of laws or regulations in the Kingdom of the Netherlands concerning the rights and duties of neutrals, nor any special laws or ordinances for either party on this very important matter of external public law. The Government may use Articles 84 and 85 of the Penal Code; but no legislative provisions have been adopted to protect the Government, and serve against those who attempt a violation of neutrality. It may be said that no country has codified these regulations, and given them the force of law; and, though Great Britain and the United States have their Foreign Enlistment Act, its effect is very limited."

This language is criticised in the American Argument as "inaccurate," but it is in reality perfectly exact, for such provisions as those of Articles 84 and 85 of the French Penal Code cannot possibly be described as either prohibiting or enabling the Government to prevent, those definite acts and attempts against which it was the object of the British and the American Foreign Enlistment Acts to provide. These Articles are punitive only, and they strike at nothing but acts, unauthorized by the Government, which may have "exposed the State to a declaration of war," or "to reprisals." The language of the corresponding laws of almost all the other States, except Switzerland, is admitted to be similar. That of Switzerland prohibits generally, under penalties, all "acts contrary to the law of nations," while it regulates (by an enactment, the particular provisions of which are not stated) the enlistment of troops within the Swiss Federal territory."

No man having the least knowledge of the laws and constitutional systems of Great