

for the prosecution. It is an unlawful act, they say both municipally and internationally, to violate the neutrality laws of the neutral power; and their position is unassailable to that extent. But I do not agree with them as to the inference they draw from this rule as applied to the present case. Our laws upon this subject are not made to protect the United States, but to protect ourselves. Their object "is to prevent, foreign nations injuring us, not to protect them from one another"—("Historicus," p. 152.) And the breach of them is a matter with which the other belligerent has nothing to do. "The right which is injured by the act of the offending belligerent is the right of the neutral government, and not that of the other belligerent." And "the important consequence of this proposition is, that it is the neutral and not the belligerent, who is strictly entitled to claim or to enforce the remedy. And he is the only person who is entitled to complain of and to redress its infraction." To these statements of the principles applicable to this point in which I use the words of Mr. Harcourt, I might add also in his language that "when this point is properly apprehended, the solution of the question becomes simple and satisfactory." And I have no doubt but that the doctrine thus laid down is a sound one. It may be illustrated by the instances of the passage of troops through neutral territory (1 Kent, p. 119) the levies of troops in the neutral country (Ib., 119); Captures in neutral waters which are declared to be "*as between enemies* to all intents and purposes rightful" (3 Wheaton, Rep. 435. The Etrusco 3 Rob. 162), and captures made without the territory by vessels which have been equipped in violation of the laws of the neutral state. (Brig *Alerta* vs. Blas Momet, 3 Peters 425). These illustrations are cited by Mr. Harcourt, (pp. 153, 4 and 5), and they bear a close analogy to the various breaches of neutrality charged against the prisoners: namely, that they organised in this country; that they passed through it on their way to St. Albans, and that the expedition proceeded from this country. These are on all fours with some of the illustrations I have referred to, as cases in which the neutral alone "can complain of or redress" the violation of her territory; and that "the right which is injured is the right of the neutral alone," and "not that of the belligerent."

I have taken these authorities from Mr. Harcourt's book for convenience merely, but it would be easy to multiply them. The correctness of the doctrine they lay down cannot, I think, be successfully disputed. Counsel have cited a number of authorities to prove that a breach of neutrality is unlawful, that captures in violation of neutrality are subject to be declared void, and are in violation of international law; but they have not cited any authority