An example of that difference is ready to hand. Improved and stricter views of neutral duties constitute one of the great developments of recent times.

These views were (for reasons to which I have already adverted) adopted earlier and more fully in the United States than in England. What was thereupon the action of the executive? No sooner had Washington, as President, and Jefferson, as secretary of State, promulgated the rules of neutrality, by which they intended to be guided, than they caused Gideon Henfield, an American citizen, to be tried for taking service on board a French privateer, as being a criminal act, because in contravention of those rules. Political feeling procured an acquittal in spite of the judge's direction.

Later, no doubt, Congress passed the act of 1794, making such conduct criminal, not (as I gather) because it was admitted to be necessary, but simply to strengthen the hands of the executive.

I can hardly doubt how the same case would have been dealt with in England.

Assuming the doing of the acts forbidden by proclamation of neutrality, although infractions of international law, not to be misdemeanors at common law, and not to have been made offences by municipal statute, the judges (I cannot doubt) would have said the act was yesterday legal or at least not illegal, and that municipal law not having declared it a crime, they could not so declare it. According to the law of England a proclamation by the executive, in however solemn form, has no legislative force unless an act of parliament has so enacted. Parliament has in fact so enacted as to orders of the Queen in Council in many cases. But assuming the law to be as I have stated, it points to no failure in England to recognize the full obligation of international law as between States. For, notwithstanding isolated expressions of opinion uttered in times of excitement, it will not to-day be doubted that it is the duty of States to give effect to the obligations of international law by municipal legislation where that is necessary, and to use reasonable efforts to secure the observance of that law.

In England we have an old constitution under which we are accustomed to fixed modes of legislation, and when at last we accept a new development of international law, we look to those methods to give effect to it. Indeed, that habit of looking to legislation to meet new needs and developments, even in internal concerns, a habit confirmed and strengthened in the current century, has done much to restrain the judges from that bold expansion of principle to meet new cases, which, when legislation was less active, marked judicial utterances.

On the other hand, with you things are materially different. Your constitution is still so modern that equally fixed habits of looking to legislation have not had time to grow up. Meanwhile that modern constitution is, from time to time, assailed by still more modern necessities, and the methods for its amendment are not swift or easy. The structure has become completely ossified. Hence has risen what I may call a