"I cannot but think, that it is to be regretted that the whole subject-matter of this great contest, in respect of law as well as of fact, was not left open to us, to be decided according to the true principles and rules of International Law in force and binding among nations, and the duties and obligations arising out of them, at the time when these alleged causes of complaint are said to have arisen."

Having sketched the history of The Treaty of Washington, and reviewed the opinions of many writers on International Law, as well as the practice of Great Britain and of the United States with respect to the duties of neutrals, the Lord Chief Justice comes to the conclusion that the three rules in question are contrary to the law of nations:—

"It seems to me, therefore, that the law relating to contraband of war must be considered, not as arising out of obligations of neutrality, but as altogether conventional, and that by the existing practice of nations the sale of such things to a belligerent by the neutral subject is not in any way a violation of neutrality. Then how stands the matter as to ships of war? In principle, is there any difference between a ship of war and any other article of warlike use? I am unable to see any. Nor can I discover any difference in principle between a ship equipped to receive her armament and a ship actually armed. A ship of war implies an armed ship, for a ship is not actually a ship of war till armed. Of the authors I have cited, and who hold ships of war to be contraband of war, no one of those who wrote before these disputes between the United States and Great Britain had arisen, with the exception of M. Hautefeuille, makes any distinction between ships equipped to receive their armaments and ships actually armed. M. Hautefeuille, who, as we have seen, refuses to a ship equipped for armament, but not armed, the character of contraband, treats the equipping and arming as a violation of neutrality; but he gives no reason and cities no authority, and seems to me herein—I say it with the utmost respect—inconsistent with himself."

It may not be devoid of interest to note the definition of International Law laid down by the Lord Chief Justice, and the degree of authority which he allows to text writers in cases of international disputes. He says:—

"The great authority of Chancellor Kent and of the majority of writers is in favour of the latter view. But, in truth, the question does not depend on the lucubrations of learned professors or speculative jurists. However authoritatively these authors may take upon themselves to write, and however deserving their speculations may be of attention, they cannot make the law. International Law is that to which nations have given their common assent, and it is best known as settled by their common practice. . . . . When the authority of M. Rolin Jacquemyns as to the culpability of