founded. The rule is founded on the propriety and justice of taking away from the belligerent, not only the power of rescuing his vessel from pressure and impending peril of capture, by escaping into a neutral port, but also to take away the facility which would otherwise exist, by a collusive or even actual sale, of again rejoining the naval force of the enemy.

THE SANCTITY OF TREATIES

Since the outbreak of the present unfortunate war a great deal of attention has been given to the sanctity of treaties, and in a recent book by W. A. Phillips, entitled *The Confederation of Europe*, there is a very pointed reference to the alleged violation of the Hay-Pauncefote Treaty of November 18, 1901, by the act of Congress of August 24, 1912, exempting American coastwise vessels using the Panama Canal from the payment of tolls (pp. 4–6). It should be said that the United States had the undoubted right and duty to interpret the Hay-Pauncefote Treaty, and it makes no difference whether the interpretation was by a formal act of Congress or by the State Department. It was also the undoubted right and duty of Great Britain, as a party to the treaty, to interpret it. As the interpretations differed, it was natural to discuss the difference through diplomatic channels. Failing to reach agreement, the two countries were bound by the arbitration convention of April 4, 1908, to submit the dispute, which was admittedly of a legal nature, to arbitration. It is difficult to see wherein the United States could properly be charged with a breach of faith, as the two countries were still negotiating and each believed that its contention was justified. Diplomatic discussion had not been exhausted, and an appeal to arbitration remained.

Thanks to the courage and conviction of President Wilson and to the statesmanship of Senator Root, the clause exempting American coastwise shipping from the payment of tolls was repealed by act of Congress approved June 15, 1914. Recourse to arbitration was thus made unnecessary by the voluntary action of the United States, and it is a source of congratulation that no charge, however ill founded, can be laid against the United States in respect to the Hay-Pauncefote Treaty. A quotation, however, from Mr. Phillips' book, which was written and published before the outbreak of the war, is nevertheless interesting at this time. He reports a conversation about the treaty with an American engineer, during the course of which the engineer is reported to have said "that the United States has a right to do what it likes with its own territory."

To which Mr. Phillips replied, "What about the treaty?" The engineer is reported to have said: "Damn the treaty!" Upon which Mr. Phillips thus descants:

"Damn the treaty." After all, this was but putting tersely what Bismarck had said at greater length in his *Reflections:* "No treaty can guarantee the degree of zeal and the amount of force that will be devoted to the discharge of obligations when the private interest of those who lie under them no longer reinforces the text and its earliest interpretation." It was only illustrating once more Immanuel Kant's objection to international law as "a word without substance (*ein Wort ohne Sache*), since it depends upon treaties which contain in the very act of their conclusion the reservation of their breach."

"Damn the treaty." It is the principle of the old diplomacy—*Salus populi suprema lex*—applied in the interests of the new nationalism. It would not have shocked the master-builders of modern Europe, Bismarck, or Cavour, or the Balkan Allies. In this bitter competition of the nations which has replaced the old rivalry of kings there would seem to be as little room for nice distinctions of morality as in the bitter competition of modern commerce. Business is business, and, in the long run, might is right.

STATUS OF THE DECLARATION OF LONDON

The Declaration of London,[1] signed on February 26, 1909, at London as a result of a long and careful deliberation, was meant to serve a twofold purpose: first, to supply the law on disputed questions which was to be applied by the judges of the International Court of Prize, under Article 7 of the convention creating this international institution, and at the same time, to put and to express in clear, precise language the agreement which the Powers participating in the conference had reached upon certain principles of maritime warfare. Although the Declaration was drafted by representatives of only ten Powers (Germany, the United States, Austria-Hungary, Spain, France, Great Britain, Italy, Japan, the Netherlands, and Russia), it was believed that after ratification by them the reasonableness and wisdom of its provisions would secure its acceptance by the nations at large not represented in the conference. It was clearly the intention of its framers that it should regulate the conduct of nations in future war, certainly the conduct of those nations whose representatives had drafted it. This hope was not without foundation, because, although the Declaration had not been ratified, Italy proclaimed it on October 13, 1912, as the rule of conduct during the war in which she was then engaged with Turkey, and Turkey, although not

[1] Printed in SUPPLEMENT, Vol. III, p. 179.