on the same point, was made by the English High Court of Admiralty in the case of the *Fanny;* and it was there observed that a neutral subject was at liberty to put his goods on board the merchant vessel of a belligerent; but if he placed them on board an armed belligerent ship, he showed an intention to resist visitation and search, by means of the association, and, so far as he does this, he was presumed to adhere to the enemy, and to withdraw himself from his protection of neutrality. If a neutral chooses to take the protection of a hostile force, instead of his own neutral character, he must take (it was observed) the inconvenience with the convenience, and his property would, upon just and sound principles, be liable to condemnation along with the belligerent vessel.

The question decided in the case of the *Nereide* is a very important one in prize law, and of infinite importance in its practical results; and it is to be regretted that the decisions of two courts of the highest character, on such a point, should have been in direct contradiction to each other. The same point afterwards arose, and was again argued, and the former decision repeated in the case of the *Atalanta.* It was observed, in this latter case, that the rule with us was correct in principle, and the most liberal and honorable to the jurisprudence of this country. The question may, therefore, be considered here as at rest, and as having received the most authoritative decision that can be rendered by any judicial tribunal on this side of the Atlantic. (12th ed., Vol. 1, pp. 132–3.)

As far as the United States is concerned, the *Nereide* is the measured judgment of the Supreme Court, not overruled or departed from, but solemnly affirmed on a reconsideration of the question involved. The law seems to be clear, as far as the Supreme Court of the United States can make or expound the law.

JAMES BROWN SCOTT.

THE CONSEQUENCES OF THE SEVERANCE OF DIPLOMATIC RELATIONS

There seems to be some confusion in the public mind as to the consequences of a break in the diplomatic relations between two states.

When a certain diplomatic agent is unacceptable for a personal reason, his recall may be asked or he may even be sent out of a country, but the presumption is that a successor will be appointed. Suppose this not to take place, it is still no proof of strained relations, because the individual and not the state sending him is at fault.

It is quite otherwise when state A commits an unfriendly act which state B desires to resent. Their diplomatic relations may cease, *e. g.*, through B's recall of its agent to A, not because the agent conducting them is *persona non grata*, but because governmental intercourse implies an amicable understanding which no longer exists. The recall of a minister is a mark of displeasure aimed at the state. But even so,

and even if reciprocated, it is not the beginning of hostilities necessarily, not even the equivalent of a non-intercourse act or reprisals. Treaties between A and B are operative, commerce is unchecked, communication other than diplomatic unhindered. There is a background of what is conveniently called "strained relations," which may doubtless grow into hostilities but which equally well may melt away in the warmth of returning good-will or be allayed by reparation. The stoppage of direct diplomatic intercourse may last for a considerable time with no hostile sequel, as in the case of Great Britain and Venezuela with their boundary dispute, for ten years.

So likewise Italy recalled her minister at Washington in 1891 to mark her displeasure at the slowness of redress for the New Orleans lynching. And, breaking relations at its own end, France refused to receive Pinckney in 1796, to show its resentment at Jay's Treaty. Similar pressure was put by the United States upon France in 1834 to enforce the Spoliation Claims, and upon Mexico in 1858 to prevent discrimination against our citizens. None of these instances resulted in actual war.

T. S. WOOLSEY.

THE SEIZURE OF ENEMY SUBJECTS UPON NEUTRAL VESSELS UPON THE HIGH SEAS

In the *Journal Officiel* of the French Republic for November 3, 1914, there appears the following brief but very important paragraph:

> By reason of measures taken by the German military authorities in Belgium, and especially in France, regarding persons susceptible of being called to the colors, and whom the said authorities have taken as prisoners of war or have held for further action, the Government of the Republic has given instructions that all enemy subjects of the same category as the above and found on board neutral vessels shall be made prisoners of war.

There are several points of view from which this paragraph of a single sentence should be considered. In the first place, German subjects susceptible of military duty are not to be taken from German control, which would be proper enough to do if the French Republic were able to capture them and to remove them from German jurisdiction; the German subjects belonging to this category are those found, not in German territory or in territory subject to German control, nor upon German vessels upon the high seas, from which they could properly be taken, but upon neutral vessels, and such persons are to be made prisoners of war. That is to say, the French authorities are to visit