themselves placed upon the prohibitions of their own municipal law, according to which it was coincident in substance with those Rules." (British Special Argument, sec. 5.)

Now, we may very briefly, as we think, dispose of this suggestion, and of all the influences that it is appealed to to exert throughout the course of the discussion in aid of the views insisted upon by the learned Counsel. In the first place, it is not a correct statement of the Treaty to say that the obligation of these Rules, and the responsibility on the part of Great Britain to have its conduct judged according to those Rules, arise from the assent of Her Majesty thus expressed. On the contrary, that assent comes in only subsequently to the authoritative statement of the Rules, and simply as a qualification attendant upon a reservation on the part of Her Majesty, that the previous declaration shall not be esteemed as an assent *on the part of the British Government*, that those were in fact the principles of the law of nations at the time the transactions occurred.

The VIth Article of the Treaty thus determines the authority and the obligation of these Rules. I read from the very commencement of the Article:—

"In deciding the matters submitted to the Arbitrators, they shall be governed by the following three Rules, which are agreed upon by the High Contracting Parties as Rules to be taken as applicable to the case, and by such principles of international law not inconsistent therewith;" and then the Rules are stated.

Now, there had been a debate between the Diplomatic Representatives of the two Governments whether the duties expressed in those Rules were wholly of international obligation antecedent to this agreement of the parties. The United States had from the beginning insisted that they were; Great Britain had insisted that, in regard to the outfit and equipment of an *unarmed* ship from its ports, there was only an obligation of municipal law and not of international law; that its duty concerning such outfit was wholly limited to the execution of its Foreign Enlistment Act; that the discharge of that duty and its responsibility for any default therein could not be claimed by the United States as matter of international law, nor upon any judgment otherwise than of the general duty of a neutral to execute its laws, whatever they might be, with impartiality between the belligerents.

To close that debate, and in advance of the submission of any question to this Tribunal, the law on that subject was settled by the Treaty, and settled in terms which, so far as the obligation of the law goes, seem to us to admit of no debate, and to be exposed to not the least uncertainty or doubt. But in order that it might not be an imputation upon the Government of Great Britain, that while it presently agreed that the duties of a neutral were as these Rules express them, and that these Rules were applicable to this case, that a neutral nation was bound to conform to them, and that they should govern this Tribunal in its decision,—in order that from all this there might not arise an imputation that the conduct of Great Britain, at the time of the transaction (if it should be found in the judgment of this Tribunal to have been at variance with these Rules), would be subject to the charge of a variance with an acknowledgment of the Rules then presently admitted as binding, a reservation was made. What was the reservation?

"Her Britannic Majesty has commanded her High Commissioners and Plenipotentiaries to declare that Her Majesty's Government cannot assent to the foregoing Rules as a statement of principles of international law which were in force at the time when the claims mentioned in Article I arose, but that Her Majesty's Government, in order to evince its desire of strengthening the friendly relations between the two countries, and of making satisfactory provision for the future, agrees that in deciding the questions between the two countries arising out of these claims, the Arbitrators should assume that Her Majesty's Government had undertaken to act upon the principles set forth in these Rules."

Thus, while this saving clause in respect to the past conduct of Great Britain was allowed on the declaration of Her Majesty, yet that declaration was admitted into the Treaty only upon the express proviso that it should have no import of any kind in disparaging the obligation of the Rules, their significance, their binding force, or the principles upon which this Tribunal should judge concerning them.

Shall it be said that when the whole office of this clause, thus referred to, is of that nature and extent only, and when it ends in the determination that that reservation shall have *no effect* upon *your decision*, shall it, I say, be claimed that this reservation shall have an effect upon the Argument? How shall it be pretended, before a Tribunal like this, that what is to be *assumed* in the decision is not to be assumed in the Argument!

But what does this mean? Does it mean that these three Rules, in their future application to the conduct of the United States,—nay, in their future application to the conduct of Great Britain,—mean something different from what they mean in their application to the past? What becomes, then, of the purchasing consideration of these Rules for the future, to wit, that, waiving debate, they shall be applied to the past?

We must therefore insist that, upon the plain declarations of this Treaty, there is