Canada Law Journal.

VOL. LV.

TORONTO, MARCH 1919.

No. 3

THE FREEDOM OF THE SEAS.

Much has been said regarding this proposition of President Wilson concerning the freedom of the seas.

It has been feared by some that the principle the President seeks to establish is calculated to paralyze the action of Great Britain in time of war, and as it were tie up its principal arm of defence behind its back. Carried out in the terms laid down by the President it would undoubtedly have the effect of preventing Great Britain from being its own judge as to the course it should see fit to pursue in the event of its finding itself involved in war, and would compel it to seek from some international authority to be established the right to do that which she might conceive essential for her protection from her enemies. How, it may be asked, is that international authority to be obtained?

It is generally conceded that in times of peace the seas are free to all nations, and it is only in time of war that it becomes necessary for any nation to restrict this freedom. President Wilson's thesis is that this restriction shall be the result of international agreement and not the result of the mere arbitrary will of any belligerent. His proposition is this, "Absolute freedom of navigation upon the seas outside the territorial waters, alike in peace and in war. Except as the seas may be closed in whole or in part by international action for the enforcement of international covenants."

It is this exception that involves the crux of the whole matter. By "international covenants" it may possibly be assumed that he means "international obligations" wherein would be included the obligation of all nations to submit to the judgment of the international authority to be established for the settlement of all international disputes.