

CHAPTER X

NATIONALITY OF SHIPS (CONTINUED). TRANSFERS OF FLAG

I

RULES GOVERNING TRANSFERS

Sec. 302. Preliminary Observations. As was pointed out in the preceding chapter, a captured ship may be flying a non-enemy flag which it may have a right to fly according to the municipal law of the flag State and yet belligerents may refuse to recognize the right for the reason that the ship has been transferred from an enemy or prospective enemy register to a non-enemy (national or neutral) register contrary to the rules of international law governing the transfers of flag. Whenever war breaks out or has become imminent, the owners of vessels which are or would be exposed to capture by reason of their enemy character are always under a temptation to transfer them by sale, or otherwise, to a non-enemy flag in order to avoid the risk of having them captured and confiscated by the enemy.¹

Sec. 303. Provisions of the Declaration of London. In the preceding chapter attention was called to the fact that while Article 57 of the Declaration of London makes the flag which a vessel is entitled to fly the test of its enemy or neutral character the Article expressly makes this rule subject to the pro-

¹ It may be observed that a change in the nationality of a ship may also result without there being a transfer of ownership. Thus after the outbreak of the World War various American-owned vessels registered under the German flag were transferred to American registry. Among them were the *Brindilla* and the *Platuria*, both of which were captured by British cruisers in October, 1915. The transfers here involved a change of flag but not of ownership. For this reason, apparently, the British government released them without submitting to the Prize Court the question of the validity of the transfers. The nationality of a ship may also be changed in consequence of a change in the nationality of the owner resulting from his naturalization or the cession of territory or the formation of a new State. See, for example, the case of the *Mercur* (27 *Rev. Gén.*, 1920, *Jurispr.* 69), a vessel belonging to a German subject of Schleswig, which territory, in consequence of the plebiscite under the treaty of Versailles, was returned to Denmark.