

CHAPTER III.

ENEMY CHARACTER.

§ 42. The determination of character in maritime prizes is very often a matter of considerable difficulty for Prize Courts as there is no clear and generally accepted principle as to the test to be applied.

At the London Naval Conference, 1909, the question of enemy character was discussed at some length, but, owing to the diversity of criteria suggested by the British and American delegates on the one hand, and the continental delegates on the other hand, no distinct and definite rule could be arrived at. Article 58 simply laid down that the enemy character of goods depends on the enemy character of the owner, but it did not specify on what the enemy character of the owner was to depend. The question at issue has not been regulated by the Declaration of London, or, indeed, by any other international Convention. Under the circumstances, we may, therefore, expect a diversity of practice between the Anglo-American criterion of domicile and the continental test which adheres to the nationality of the owner.

Principle
of the
Declaration
of London,
1909.

§ 43. The dominant factor of character, from the English point of view, is domicile, determined by the country where a man has, or is deemed to have, his permanent home. Domicile is a question of fact, but is also primarily founded

English
criterion
founded on
domicile.