

CHAPTER VIII

CAPTURE OF ENEMY PRIVATE PROPERTY AT SEA. THE DECLARATION OF PARIS

I

PRELIMINARY OBSERVATIONS

Sec. 235. **The General Rule of International Law.** It is an established rule of international law that in general enemy private property captured at sea is liable to capture and condemnation as good prize. The exceptions to the general rule so far as *ships* are concerned have been discussed in the preceding chapters. It remains now to consider the exceptions to the rule when the property consists of goods (*les marchandises*) captured at sea. As has already been pointed out, the Prize Courts during the World War applied the rule of confiscation to enemy goods captured in ports or in interior rivers when if they had been captured at sea they would have been liable to condemnation.¹

As is well known, the United States has endeavored at various times to bring about an agreement among the Powers to exempt all enemy private property at sea, whether ships or goods, except contraband of war, from confiscation and thus bring the law of maritime capture more into harmony with the law governing capture on land. But the efforts have been without success.² By a treaty concluded between the United States and Italy on February 26, 1871 (still in force),³ it was provided that in the event of war between the high contracting parties the private property of their respective citizens and subjects, with the exception of contraband of war, should be exempt from capture or seizure on the high seas or elsewhere. The Italian merchant marine code

¹ *Supra*, Secs. 147 ff.

² As to the present status of the law and practice, see an article by H. S. Quigley, entitled "The Immunity of Private Property from Capture at Sea,"

² *Amer. Jour. of Int. Law*, pp. 22 ff.

³ Article XII.