

CHAPTER XI

NATIONALITY OF GOODS CAPTURED AT SEA. ENEMY CHARACTER

I

PRELIMINARY OBSERVATIONS

Sec. 327. Questions Involved. The liability to capture and confiscation of goods carried at sea like that of the ships which carry them, depends upon their national character. Few questions were the subject of more frequent prize adjudication during the World War and probably none raised more perplexing difficulties for the Prize Courts. Among the particular forms which the general question assumed were: whether in given cases cargoes found on enemy ships were or were not confiscable, whether the owners of goods sunk with the ships on which they were laden were entitled to indemnities, whether goods otherwise innocent were liable to confiscation by reason of their being "infected" by the presence of contraband, whether enemy goods found on neutral ships and therefore protected by the Declaration of Paris were nevertheless confiscable in virtue of the measures of reprisal adopted by certain belligerent governments, whether goods found on non-enemy ships engaged in unneutral or hostile service were liable to condemnation, etc. The judgments of the Prize Courts, especially of Great Britain, in many of the cases are elaborate and involved and it is not always easy to follow them in the tortuous processes by which they endeavored to unravel what often proved to be complicated and tangled skeins.

Sec. 328. Rule of the Declaration of London. Article 58 of the Declaration of London enunciates the rule that "the neutral or enemy character of goods found on board an enemy vessel is determined by the neutral or enemy character of the owner." Unfortunately, the rule does not lay down any principle by which the enemy or neutral character of the owner is to